

No. 3232

IN THE
**United States Circuit Court
of Appeals**

For the Ninth Circuit

UNITED STATES OF AMERICA,
Plaintiff, Appellant,

vs.

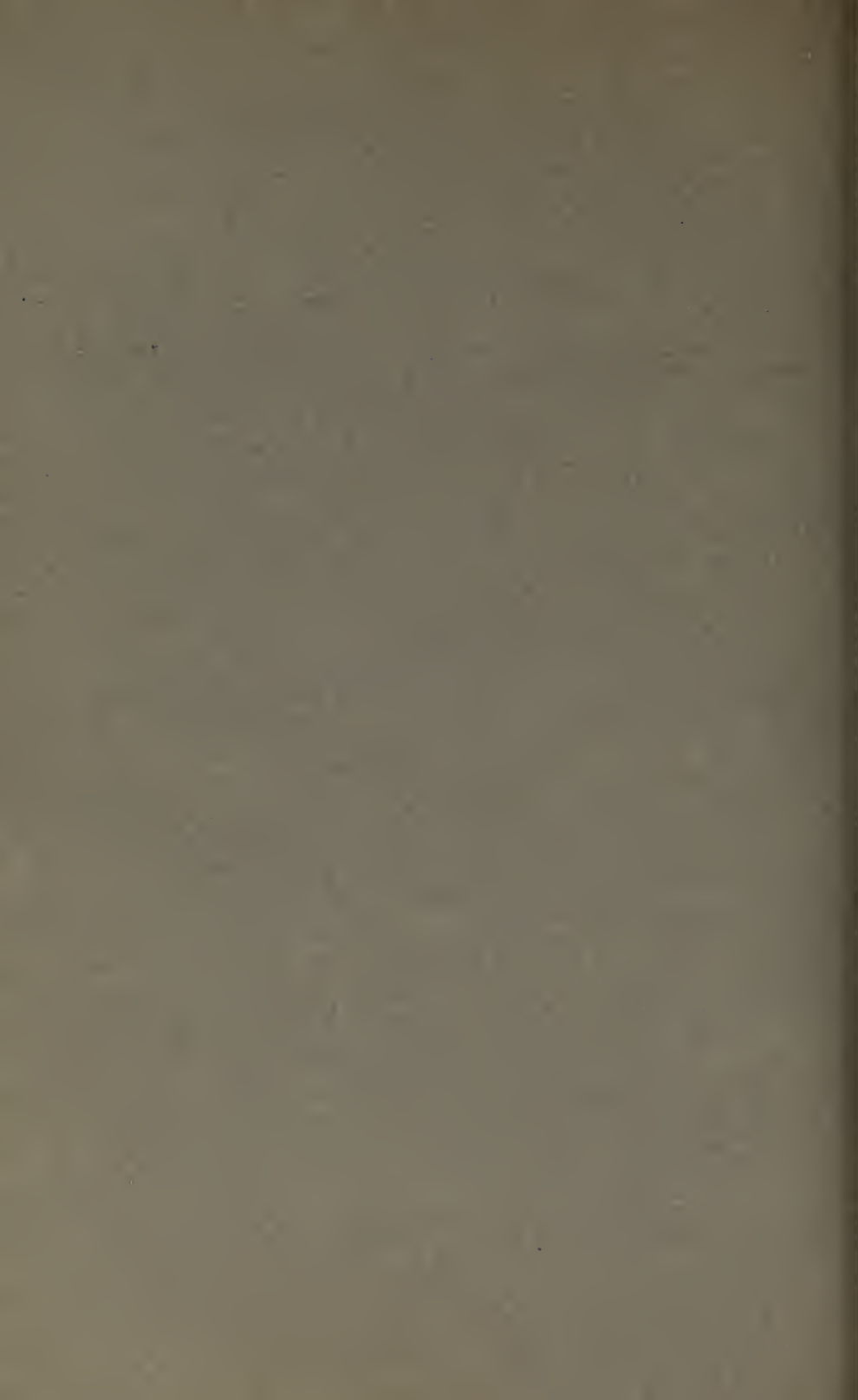
JOSEPH WOERNDLE,
Defendant, Respondent.

Transcript of Record

Upon Appeal from the United States District Court
for the District of Oregon.

MR. LESTER W. HUMPHREYS,
United States Attorney, District of Oregon, Port-
land, Oregon,
For Appellant.

MR. C. T. HAAS, Exchange Bldg., Portland, Oregon,
For Respondent.



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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

MR. LESTER W. HUMPHREYS, United States Attorney,
District of Oregon, Portland, Oregon.

For Appellant.

MR. C. T. HAAS, Exchange Bldg., Portland, Oregon.

For Respondent.

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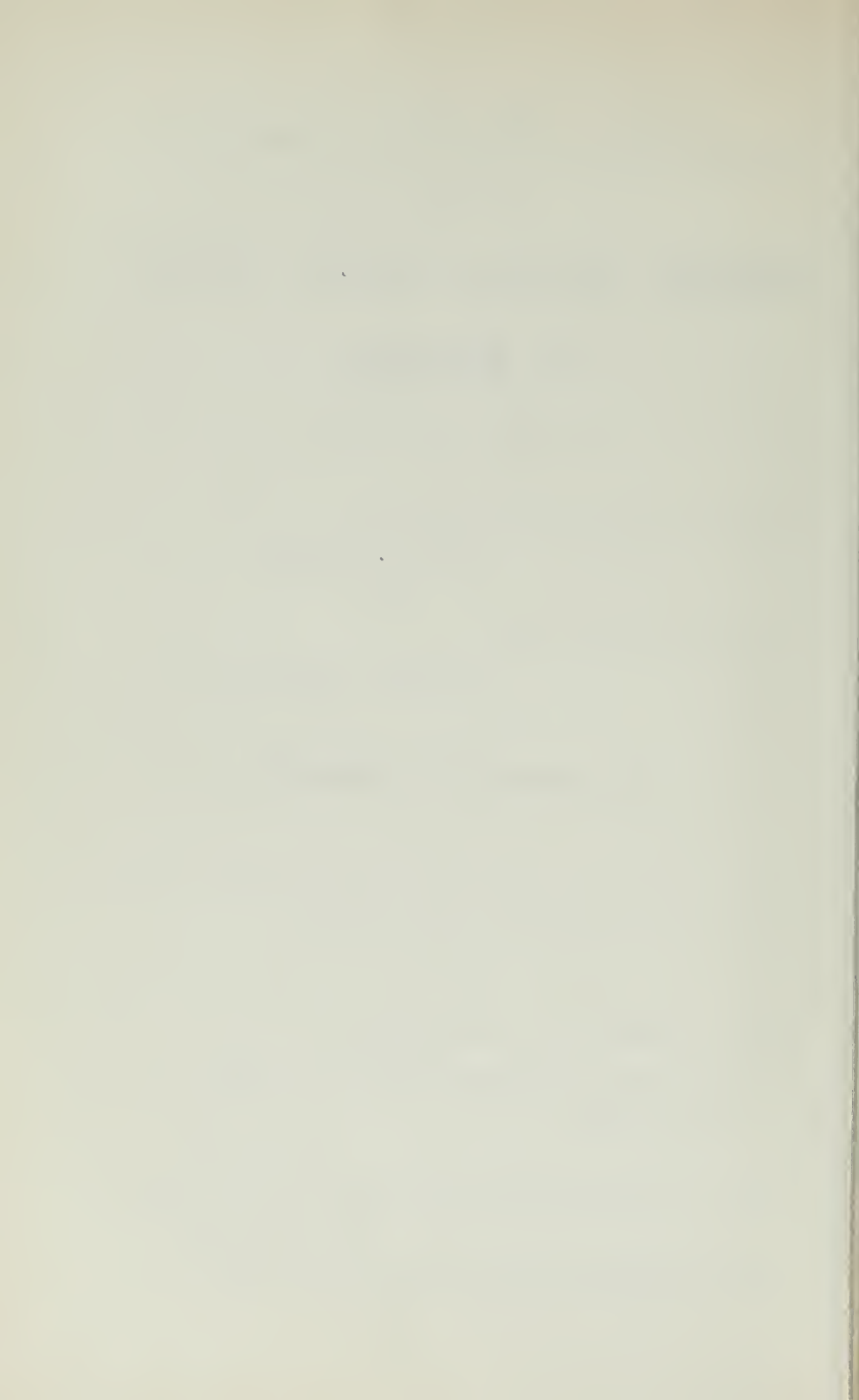
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For Appellant.

MR. C. T. HAAS, Exchange Bldg., Portland, Oregon,
For Respondent.



CITATION ON APPEAL

UNITED STATES OF AMERICA: ss.

TO JOSEPH WOERNDLE: GREETINGS:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals, Ninth Circuit, to be held at San Francisco, California, on the 19th day of October, 1922, pursuant to an appeal filed in the Clerk's Office of the District Court of the United States for the District of Oregon, wherein the United States of America is appellant and Joseph Woerndle is respondent, to show cause, if any there be, why the judgment in said appeal mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Given under my hand at Portland in said District of Oregon, this 19th day of September, 1922.

R. S. BEAN,
District Judge.

On the 19th day of September, 1922, there was duly filed in the District Court of the United States for the District of Oregon a notice of appeal and assignments of error, in words and figures as follows, to-wit:

NOTICE OF APPEAL

The above named plaintiff, United States of America, hereby appeals to the Circuit Court of Appeals,

Ninth Circuit, from the decree entered on April 17, 1922, in the above entitled court and cause, dismissing the bill of complaint of plaintiff; and plaintiff prays that this appeal may be allowed and that a transcript of the record and proceedings and papers upon which the aforesaid decree was made, duly authenticated, may be sent to the said Circuit Court of Appeals, Ninth Circuit.

LESTER W. HUMPHREYS,

United States Attorney.

Portland, Oregon, September 19, 1922.

And now, to-wit: on September 19, 1922, IT IS ORDERED that the appeal be allowed as prayed for.

R. S. BEAN,

District Judge.

ASSIGNMENTS OF ERROR ON APPEAL

Comes now the above named plaintiff and appellant and in connection with the appeal in the above entitled cause, makes the following assignments of error, which it avers occurred in said cause.

I.

The court erred in holding that a passport fraud, deliberately perpetrated upon the United States by the naturalized German, Woerndle, then in the employ of the Austrian Consular Service, in October, 1914, by which he aided a German Reserve officer, then in the

United States, to assume the identity and citizenship of Woerndle, and return through belligerent territory under fraudulent protection of American citizenship, to enter the German Military service; together with letters written by Woerndle when it appeared to him that the United States was about to enter the war, saying he was ashamed of the action of the American nation, that if he were in Germany he would gladly allow himself to be put in uniform and would be found in the trenches or on the battlefield, dead, with other similar expressions, and with the other evidence in the case, did not show that Woerndle had not honestly renounced allegiance to Germany; this having been his first opportunity after his naturalization to exhibit by word or act, his true allegiance.

II.

The court erred in holding that Woerndle had been loyal to the United States after February, 1917; the evidence disclosing that the passport fraud was discovered then, but Woerndle's part in it still unknown, that the Government then began an investigation, and that Woerndle, on learning of the investigation, became fearful and concealed evidence of his part in it, by cutting an incriminating page out of his diary, and pasting a rewritten expurgated page in its place.

III.

The court erred in failing to hold that when Woern-

dle, a lawyer, admitted in 1909, the sole representative at Portland of the Austrian Consulate, the editor of a newspaper published in German in Portland, did the things set out in specifications I and II, his acts were inspired by an allegiance to Germany superior to his allegiance to the United States.

IV.

The court erred in holding that the evidence outlined in Specifications I, II and III was insufficient to support plaintiff's bill of complaint.

V.

The court erred in dismissing plaintiff's bill of complaint.

VI.

The court erred in failing to decree the cancellation of Woerndle's citizenship.

LESTER W. HUMPHREYS,

United States Attorney.

On the 1st day of April, 1921, there was duly filed in the District Court of the United States for the District of Oregon a bill of complaint in words and figures as follows, to-wit:

BILL OF COMPLAINT IN EQUITY

TO THE HONORABLE JUDGES OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON:

United States of America by Lester W. Humphreys, United States Attorney for the District of Oregon, pursuant to authority conferred upon him by the laws of the United States, brings this its bill of complaint against the above named defendant and for cause of suit complains and alleges:

I.

That the defendant Joseph Woerndle now resides at Portland, State of Oregon, and within the jurisdiction of this court, and since on or about the 23rd day of August, 1904, has been a citizen of the United States by reason of certain hereinafter described proceedings in naturalization.

II.

That the Superior Court of the State of Washington, for Pacific County, is a court having jurisdiction to naturalize aliens in the said State of Washington for the county aforesaid, in which the naturalized citizen, to-wit: Joseph Woerndle, resided on August 23, 1904, and had so resided for some time prior thereto.

III.

That on or about the 23rd day of August, 1904, Joseph Woerndle, the defendant above named, was then and there an alien and subject of a foreign state and sovereign, to-wit: a person who was born within the territorial limits of the Imperial Government of Germany and was a subject of the Emperor of Ger-

many and was admitted to become a citizen of the United States by a court then and there having jurisdiction of naturalization matters, to-wit: the Superior Court of the State of Washington for Pacific County, holding session at the City of South Bend, in said county and state, and a certificate of naturalization was on said 23rd day of August, 1904, issued and delivered to the said defendant under and by virtue of the order of the said Superior Court of the State of Washington for Pacific County, made and entered on or about the 23rd day of August, 1904, and ever since said date said defendant has claimed and now claims to be a citizen of the United States by reason thereof.

IV.

That the said certificate of naturalization, issued and delivered to said defendant as described in paragraph three hereof, was procured from the said Superior Court of the State of Washington for Pacific County by fraud and deception of him, the said Joseph Woerndle; that said fraud and deception upon the said Superior Court of the State of Washington for Pacific County by the said defendant in securing the issuance and delivery of the said certificate of naturalization, consisted in false representations and concealment of material facts and the making of a false oath of allegiance, without which fraud and deception the judgment admitting said defendant to citizenship would

not have been rendered and the certificate of naturalization would not have been issued, which fraud and deception occurred in the following manner, to-wit:

That prior to the 23rd day of August, 1904, said defendant declared on oath before a court having jurisdiction over naturalization proceedings, that it was his bona fide intention to become a citizen of the United States and renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty and particularly to the Emperor of Germany, of whom he was theretofore a subject; that said declaration, so made on oath by defendant, was false and untrue; that in truth and in fact it was not the intention of the said defendant to renounce absolutely and forever, or at all, his allegiance to William II, Emperor of Germany, but in truth and in fact said defendant has at all times and does now retain his allegiance to the State of Germany and to the Emperor thereof. That said defendant did on the 25th day of August, 1904, ever since has and does now retain and hold allegiance to the State of Germany, superior to that which he recognizes to the United States of America. That said defendant, on or about the 23rd day of August, 1904, as a part of the aforesaid naturalization proceedings, declared on oath before the Superior Court of the State of Washington for Pacific County, that he would support the Constitution of the United States and that he absolutely and

entirely renounced and abjured all allegiance and fidelity to every foreign prince, potentate, state or sovereignty, and particularly to William II, Emperor of Germany, of whom he was before a subject. That the aforesaid oath, so made by the defendant before said Superior Court of the State of Washington for Pacific County, was fraudulent and untrue in this, that the said defendant made said oath with a mental reservation of allegiance to said William II, Emperor of Germany, and to the State of Germany, and that the said allegiance, so reserved by the defendant aforesaid, was and is superior to the allegiance held by the said defendant to the United States of America.

V.

That before the filing of this Bill of Complaint, there has been delivered to and is now in the possession of the said United States Attorney an affidavit made and delivered by V. W. Tomlinson, Naturalization Examiner of the Bureau of Naturalization, Department of Labor of the United States, showing good cause for instituting this proceeding, copy of which affidavit is hereto attached and incorporated herein and is by this particular reference made a part of this Bill of Complaint as Exhibit "A".

VI.

That plaintiff has no plain, speedy and adequate remedy at law, but only in this court of equity having jurisdiction therein.

WHEREFORE plaintiff prays:

1. That process issue out of this court in accordance with the law relating to naturalization proceedings and the rules and practices of this court requiring the defendant herein to be and appear in the above entitled court on a day certain, to-wit: sixty (60) days after the date of service thereof.

2. That said defendant be required to answer this Bill of Complaint, or have judgment for cancellation of said certificate of naturalization taken pro confesso.

3. That the order of the Superior Court of the State of Washington for Pacific County, made on the said 23rd day of August, 1904, admitting the defendant herein to be a citizen of the United States of America, be vacated and set aside.

4. That the certificate of citizenship issued out of the Superior Court of the State of Washington for Pacific County and delivered to the said Joseph Woerndle, be revoked and cancelled.

5. That said defendant, Joseph Woerndle, be caused to refrain and be enjoined from ever after using or enjoying any of the rights, privileges and benefits thereunder, and

6. That plaintiff herein have such other, further and different relief as the nature of this case may require,

or as to this court may seem meet and just in equity.

LESTER W. HUMPHREYS,
United States Attorney, Solicitor for Plaintiff.

EXHIBIT "A"

UNITED STATES OF AMERICA,
DISTRICT OF OREGON, ss.

I. V. W. Tomlinson, being first duly sworn on oath, say: That I am a duly appointed and acting naturalization Examiner of the Bureau of Naturalization, United States Department of Labor, and having my official headquarters at the City of Portland, County of Multnomah, State of Oregon. That as such Examiner I am familiar with and have access to the records of the United States Naturalization Service and all courts exercising naturalization jurisdiction.

That on or about August 23, 1904, the Superior Court of the State of Washington, for Pacific County at South Bend, Washington, was a court by law vested with naturalization jurisdiction, and with power thereunder to admit to citizenship, as citizens of the United States aliens applying therefor, and who had complied with the laws, rules and regulations with respect thereto. That the records of said Superior Court at South Bend, Washington, show that on or about August 23, 1904, one Joseph Woerndle, a native of Germany and a subject of the German Empire and its rulers was admitted in said court to full citizenship in, and as a citi-

zen of the United States of America. That prior to being so admitted to citizenship in said court, and as a necessary precedent thereto said Joseph Woerndle, in open court, declared upon his oath that he absolutely and entirely renounced and abjured all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty, whatsoever, and particularly to the Emperor of Germany, of whom he was then a subject. That he further in open court at said time declared upon his oath in the prescribed form that he would support the Constitution and laws of the United States.

That on or about October 3, 1914, and for long prior thereto, one Hans W. Boehm, a citizen of the German Empire and a subject of its rulers, was a resident and inhabitant of Multnomah County, State of Oregon. That said Boehm was a Reserve or other officer of the German Army whose exact official connection with such army at such time is unknown to this affiant. That on October 3, 1914, and for some time prior thereto a state of war existed between the Imperial German Government, allied with the Imperial and Royal Austro-Hungarian Government, and the Republic of France allied with the Kingdom of Great Britain and Ireland, the Kingdom of Belgium and the Imperial Government of Russia. That this affiant has ascertained from an inspection of the official files and documents of the United States Department of Justice that on or about October 3, 1914, said Joseph

Woerndle, then a resident and inhabitant of Multnomah County, State of Oregon, addressed, in writing, the Secretary of State of the U. S. Department of State, at Washington, D. C., in substantially the following form and manner, to-wit:

“Portland, Oregon, Oct. 3, 1914.

“His Excellency

Wm. J. Bryan,

Secretary of State,

Washington, D. C.

Dear Sir:

Enclosed find application for passport and certificate of citizenship, together with the sum of \$2.00, and would kindly request that the same be sent to Joseph Woerndle, c/o Waldorf-Astoria Hotel, New York, N. Y.

Submitting my sincere respects, I am, believe me,

Your obedient servant,

(Sgd.) JOSEPH WOERNDLE.”

That said Joseph Woerndle transmitted to the Secretary of State with said letter an application for a passport signed by him, the said Joseph Woerndle, together with the citizenship papers of him, the said Joseph Woerndle. That thereafter and on or about October 9, 1914, a passport was duly and regularly issued to Joseph Woerndle by the proper officers of

the Department of State and was forwarded by them as requested to said Joseph Woerndle, care of Waldorf-Astoria Hotel, New York City, N. Y. That said passport so issued and delivered, as aforesaid, was thereafter called for and secured by a person purporting to be Joseph Woerndle, but, who in truth and in fact was not Joseph Woerndle, but was in fact the said Hans W. Boehm who took and assumed the name of Joseph Woerndle; used said passport issued to Joseph Woerndle to enable him, the said Hans W. Boehm, to travel in safety from New York, N. Y., to Berlin, Germany, and used the citizenship papers of said Joseph Woerndle as identification to enable him, the said Hans W. Boehm, to so travel upon said passport as an American citizen when in truth and in fact he was not an American citizen, but was an intelligence or other officer of the Germany Army. That thereafter the said Hans W. Boehm using the alias of "Joseph Woerndle," and the citizenship papers of Joseph Woerndle, and by virtue of such alias and citizenship papers purporting to be an American citizen, and moving about and traveling unhindered as an American citizen, and under the protection of the Government of the United States by virtue of such falsely assumed citizenship, returned from Berlin, Germany, to the City of New York, N. Y., on a date unknown to this affiant, but which affiant is informed and believes, wherefore he alleges, the fact to be, was not later than January 1, 1915.

That thereafter and on or about January 3, 1915, the German Foreign Office at Berlin, Germany, cabled the Ambassador of the Imperial German Government, at Washington, D. C., in words and figures substantially as follows:

"Jan. 3-15. Secret. General Staff desires energetic action in regard to proposed destruction of Canadian Pacific Railway at several points, with a view to complete and protracted interruption of traffic. Capt. Boehm, who is known on your side and is shortly returning, has been given instructions. Inform the Military Attache and provide the necessary funds.

ZIMMERMAN."

That the "General Staff" referred to in said telegram was the General Staff of the German Army, and the "ZIMMERMAN" whose name was signed to said message was Cancellor of the Imperial German Government, and the "Capt. Boehm," referred to in said message was said Hans W. Boehm, alias Joseph Woerndle, as aforesaid.

That shortly after the receipt of said cable, aforesaid, said Hans W. Boehm received from VonPapen, an accredited agent of the Imperial German Government, the sum of \$50,000.00 "for special purposes," which said sum was deposited by said Hans W. Boehm with the Guaranty Trust Company, New York, N. Y.,

under the name of "Woerndle & Hanson," c/o "Hagemeyer & Brumm, 9 Stone Street, New York, N. Y." The signature card used in making said deposit, showing "Joseph Woerndle" as the legitimate person to draw against said account so established.

That thereafter the said Hans W. Boehm, using the alias, "Joseph Woerndle," applied for and received other passports from the Department of State of the United States, supporting the applications therefor with the citizenship papers of Joseph Woerndle and representing himself to be an American citizen, and in fact to be "Joseph Woerndle," and by virtue of which passports he traveled safely in various European countries then at war with the Imperial German Government and the Royal and Imperial Austro-Hungarian Government, in which said countries he could not have traveled under his true name or citizenship without arrest and incarceration as a prisoner of war. That during all of said times from October 3, 1914, and thereafter, said Hans W. Boehm, alias "Joseph Woerndle," was acting as an agent of the Imperial German Government in promoting its interests and its warfare against countries with which the United States as a Nation was at peace, but with which the Imperial German Government and Royal and Imperial Austro-Hungarian Government was at war.

That the said Joseph Woerndle openly and actively

aided and assisted the said Hans W. Boehm to secure the passports heretofore herein referred to, and openly and actively aided and assisted said Hans W. Boehm in furthering the interests and warfare of the Imperial German Government and Royal and Imperial Austro-Hungarian Government, and advised, aided and assisted said Hans W. Boehm to use the alias of "Joseph Woerndle," for the purpose of securing fraudulent passports and perpetrating frauds upon the Government of the United States in securing its protection abroad for one not a citizen thereof, and well known to said Joseph Woerndle to be not entitled to such protection, and thereby perpetrating frauds upon other nations and countries with which the United States was at peace, but with which the Imperial German Government and its allies were at war.

That the said Joseph Woerndle fraudulently obtained naturalization in this:

That at the time he declared upon his oath in open court that he absolutely and entirely renounced and abjured all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty, and particularly to the Emperor of Germany, of whom he was then a subject, in truth and in fact he did not renounce or abjure allegiance to the German Emperor, but secretly and unknown to the court admitting him to citizenship, and for the purpose of deceiving and mis-

leading said court, he kept and retained allegiance to the Empire of Germany and its rulers as evidenced by the fact that he has used the citizenship bestowed upon him by said court at said time for the purpose of:

(1) Aiding and assisting said Imperial German Government and its rulers in making war upon nations with which the United States was at peace; and

(2) Advising a person whom he knew not to be a citizen of the United States to pose as a citizen thereof, and to claim citizenship therein, and to seek for and obtain fraudulent rights belonging only to a citizen, and aiding and assisting and encouraging the perpetration of such fraud by furnishing his own citizenship papers in furtherance thereof.

V. W. TOMLINSON.

Subscribed and sworn to before me this 5th day of March, 1921.

G. H. MARSH,

Clerk U. S. District Court, Portland, Oregon.

(Seal)

By E. M. MORTON,

Deputy Clerk.

AND AFTERWARDS, to-wit, on the 26th day of September, 1921, there was filed in said District Court, a motion in words and figures as follows, to-wit:

MOTION TO STRIKE PORTIONS OF BILL OF
COMPLAINT IN EQUITY

TO THE HONORABLE JUDGES OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF OREGON:

The defendant acting by his undersigned attorneys respectfully moves for an order of this court striking out from the Bill of Complaint the portions thereof hereinafter designated.

This motion is filed in good faith and not for the purpose of delay and is meritorious and is made because the allegations sought to be stricken out are incompetent, irrelevant, immaterial, sham, frivolous and are not pertinent and are conclusions of law.

The portions sought to be stricken out of the Bill of Complaint and out of the affidavit attached to the Bill of Complaint as Exhibit "A" insofar as the same are incorporated in the complaint, are as follows, namely:

1. But in truth and in fact said defendant has at all times and does now retain his allegiance to the State of Germany and to the Emperor thereof. (Complaint, page 3.)

2. The following words in paragraph 4 on page 3 of the Complaint: "ever since has and does now."

3. That said Boehm was a Reserve or other officer of the German Army whose exact official

connection with such Army at such time is unknown to this affiant. (Affidavit, page 1.)

4. That on October 3, 1915, and for some time prior thereto a state of war existed between the Imperial German Government, allied with the Imperial and Royal Austro-Hungarian Government, and the Republic of France allied with the Kingdom of Great Britain and Ireland, the Kingdom of Belgium and the Imperial Government of Russia. (Affidavit, page 1.)

5. That said passport so issued and delivered, as aforesaid, was thereafter called for and secured by a person purporting to be Joseph Woerndle, but, who in truth and in fact was not Joseph Woerndle, but was in fact the said Hans W. Boehm who took and assumed the name of Joseph Woerndle; used said passport issued to Joseph Woerndle to enable him, the said Hans W. Boehm, to travel in safety from New York, N. Y., to Berlin, Germany, and used the citizenship papers of said Joseph Woerndle as identification to enable him, the said Hans W. Boehm, to so travel upon said passport as an American citizen when in truth and in fact he was not an American citizen, but was an intelligence or other officer of the German Army. (Affidavit, page 2.)

6. That thereafter the said Hans W. Boehm using the alias of "Joseph Woerndle," and the

citizenship papers of Joseph Woerndle, and by virtue of such alias and citizenship papers purporting to be an American citizen, and moving about and traveling unhindered as an American citizen, and under the protection of the Government of the United States by virtue of such falsely assumed citizenship, returned from Berlin, Germany, to the City of New York, N. Y., on a date unknown to this affiant, but which affiant is informed and believes, wherefore he alleges, the fact to be, was not later than January 1, 1915. (Affidavit, page 2.)

7. That thereafter and on or about January 3, 1915, the German Foreign Office at Berlin, Germany, cabled the Ambassador of the Imperial German Government, at Washington, D. C., in words and figures substantially as follows:

"Jan. 3-15. Secret. General Staff desires energetic action in regard to proposed destruction of Canadian Pacific Railway at several points, with a view to complete and protracted interruption of traffic. Capt. Boehm, who is known on your side and is shortly returning, has been given instructions. Inform the Military Attache and provide the necessary funds.

"ZIMMERMAN."

(Affidavit, page 2.)

8. That the "General Staff" referred to in said

telegram was the General Staff of the German Army, and the "ZIMMERMAN" whose name was signed to said message was Chancellor of the Imperial German Government, and the "Capt. Boehm," referred to in said message was said Hans W. Boehm, alias Joseph Woerndle, as aforesaid. (Affidavit, page 2.)

9. All of the first paragraph at the top of page three of the affidavit.

10. All of the second paragraph on page three of the affidavit.

11. The following words set out in paragraph 3 of the affidavit, page 3, "and openly and actively aided and assisted the said Hans W. Boehm in furthering the interests and warfare of the Imperial German Government and the Royal and Imperial Austro-Hungarian Government," "and thereby perpetrating frauds upon other nations and countries with which the United States was at peace, but with which the Imperial German Government and its allies were at war."

12. All of the last paragraph on page three of the affidavit.

(Sgd.) W. P. LA ROCHE,

C. T. HAAS,

Attorneys for the Defendant.

AND AFTERWARDS, to-wit, on the 10th day of October, 1921, an order was made in said cause, as

follows :

**ORDER PARTIALLY ALLOWING MOTION TO
STRIKE**

Now, at this day, this cause comes on to be heard upon the motion of defendant on file herein to strike out parts of the bill of complaint, plaintiff appearing by Mr. John C. Veatch, Assistant United States Attorney, and defendant by Mr. W. P. La Roche and Mr. Charles T. Haas, of counsel. And the court, having heard the arguments of counsel,

IT IS ORDERED that said motion be and the same is hereby allowed so as to strike from the complaint herein that part of paragraph V as follows: "and incorporated herein and is by this particular reference made a part of this complaint."

AND AFTERWARDS, to-wit, on the 1st day of November, 1921, there was duly filed in said court and cause a motion as follows:

MOTION TO DISMISS BILL OF COMPLAINT

To the Honorable Judges of the District Court of the United States for the District of Oregon:

The defendant, acting by his undersigned attorneys, respectfully moves for an order of this court dismissing the bill of complaint in this cause for the reasons and upon the following grounds:

1.

That it appears on the face of the bill of complaint

that the facts alleged therein do not constitute a cause of suit or entitle the plaintiff to the relief therein prayed for.

2.

Because the cause of suit as alleged in the said bill of complaint has not accrued within five years next preceding the filing of the complaint as required by law, and it so appears from the face of the bill of complaint.

3.

That said bill of complaint was not filed in the said court within the statutory period required by law and it so appears from the face of the bill of complaint.

4.

That the affidavit of V. W. Tomlinson, Naturalization Officer, attached to said bill of complaint, and upon which affidavit Lester W. Humphreys, United States District Attorney for the District of Oregon, instituted this proceeding by the filing of said bill of complaint in this court, does not show good cause therefor as required by law but on the contrary, the facts in said affidavit set forth show that there is no legal ground for the institution of this proceeding.

W. P. LA ROCHE,
C. T. HAAS,
Attorneys for Defendant.

AND AFTERWARDS, to-wit, on the 21st day of November, 1921, an order was duly made in said court and cause as follows:

ORDER DENYING MOTION TO DISMISS BILL

This cause was heard by the court upon the motion of the defendant to dismiss the bill of complaint herein and was argued by Mr. Lester W. Humphreys, United States Attorney, and by Mr. William P. La Roche and Mr. C. T. Haas of counsel for said defendant. On consideration whereof

IT IS NOW ORDERED AND ADJUDGED that said motion be and the same is hereby denied.

AND AFTERWARDS, to-wit, on the 28th day of November, 1921, there was duly filed in said court and cause an answer as follows:

ANSWER

Comes now the defendant, Joseph Woerndle, and for answer to the complaint herein, alleges, admits and denies:

I.

Admits the allegations contained in paragraphs I and II of the said bill of complaint in equity.

II.

Denies that he was a subject of the Emperor of Germany on the 23rd day of August, 1904, as alleged in the third paragraph of the said bill, but alleges the fact to be that prior to the 23rd day of August, 1904, to-wit, on the 19th day of June, 1897, he made application for and received a certificate of surrender of citizenship from the Royal Bavarian Government of

Upper Bavaria of the Empire of Germany, which said act was done by him, the said defendant, for the sole purpose of expatriating himself from his native land so that he could be fully prepared, upon entering the United States, for citizenship in the United States of North America. Defendant admits all of the other allegations contained in said paragraph III.

III.

Defendant denies that the said certificate of naturalization issued and delivered to the said defendant, as described in paragraph III of said bill herein, from the said Superior Court of the State of Washington, for Pacific County, was procured by fraud and deception by him and denies that he made any false representations and/or concealed any material facts and/or made a false oath of allegiance in said Superior Court of the State of Washington, for Pacific County, from which, or either or any of them, said certificate was procured and issued. Defendant denies that in truth and fact it was not the intention of him, the said defendant, to renounce absolutely and forever, or at all, his allegiance to William the Second, Emperor of Germany; denies that in truth and in fact said defendant has at all times and does now retain his allegiance to the State of Germany and the Emperor thereof. Said defendant denies that he did on the 24th day of August, 1904, ever since, and does now, or that at any time on or subsequent to the 24th day of August, 1904, retain and hold

any allegiance to the State of Germany or to any foreign prince, potentate, state or sovereignty, and particularly to William the Second, Emperor of Germany, superior to that which he recognizes to the United States of America. Said defendant denies that the oath which he took prior to the 23rd day of August, 1904, as a part of the aforesaid naturalization proceedings, that he would support the Constitution of the United States and that he absolutely and entirely renounced and adjured all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to William the Second, Emperor of Germany, was fraudulent and untrue in that said defendant made said oath with the mental reservation of allegiance to the said William the Second, Emperor of Germany, and to the State of Germany, and that the said allegiance so reserved by the defendant aforesaid was and is superior to the allegiance held by the said defendant to the United States of America. Defendant alleges that on the 23rd day of August, 1904, he did declare on oath in the Superior Court of the State of Washington, for Pacific County, said court having jurisdiction over naturalization proceedings, that it was his bona fide intention to become a citizen of the United States and renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to the Emperor of Germany, of whom he had been a subject, and that said declara-

tion so made on oath was absolutely true without any mental reservations whatsoever; and defendant further alleges that on the 23rd day of August, 1904, in the same court, as a part of the aforesaid naturalization proceedings, he did declare on oath that he would support the Constitution of the United States and that he absolutely and entirely renounced and adjured all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly to William the Second, Emperor of Germany, of whom he had been a subject, and that therefore said oath was true and that there was no mental reservation whatever through or by which he withheld any allegiance for his native state or sovereignty, but all of his allegiance was wholeheartedly then and there given the United States of America without any mental reservation.

IV.

The defendant admits that before the filing of this bill of complaint there had been delivered to and is now in the possession of the United States Attorney, an affidavit made and delivered by V. W. Tomlinson, naturalization examiner of the Bureau of Naturalization, Department of Labor of the United States, copy of which affidavit is attached to said bill of complaint, and defendant denies that said affidavit shows good cause for instituting the proceedings set out in the bill of complaint, but alleges the fact to be that the said affidavit is wholly insufficient in its statements to

authorize Lester W. Humphreys, United States Attorney for the District of Oregon, to bring and institute said bill of complaint for the cancellation of defendant's citizenship.

And defendant further answering alleges:

I.

That it appears on the face of the complaint that the Government had knowledge of the alleged fraud complained of in the said bill of complaint, for more than five years before the filing of the said bill of complaint, and that the said suit is therefore barred by the statute of limitations.

II.

That it appears on the face of the bill of complaint that the facts alleged therein do not constitute a cause of suit or entitle the plaintiff to the relief therein prayed for.

W. P. LA ROCHE,

C. T. HAAS,

Solicitors for Defendant.

WHEREFORE, defendant having fully answered, prays that said bill of complaint be dismissed.

And afterwards, to-wit, on the 30th day of November, 1921, there was duly filed in said court and cause a motion as follows:

**MOTION TO RETURN PRIVATE PAPERS, BOOKS
AND OTHER PROPERTY**

TO THE HONORABLE JUDGES OF THE DIS-
TRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON:

Now comes the defendant above named and respectfully moves the court and alleges as follows:

Defendant states that he is a citizen of the United States and a resident of Portland, Oregon, that he resides, owns and occupies a home at 710 Flanders Street in said city.

That on the 28th day of December, 1918, while your petitioner was absent at his daily vocation, certain officers of the United States Government whose names to the petitioner are unknown, unlawfully and without proper warrant or authority so to do, entered the petitioner's home and seized all of his books, letters, papers, notes, diaries, legal instruments, and other personal property in said home which petitioner is now unable to describe, and this in violation of the fourth and fifth Amendment to the Constitution of the United States and also in violation of the Act of June 15th, 1917, Chapter 30, Title 11, Sections 1-23 thereof, 40 Stat. 217-228, United States Laws, also known as Chapter 16 of Barnes Federal Code, being paragraphs 10050-10069 inclusive.

That said forcible seizing and taking of papers and

other personal property from the premises of your petitioner was under the color of a purported and alleged search warrant based on an alleged affidavit of W. R. Bryon, a United States official, said warrant being issued by the Hon. Frederick H. Drake, United States Commissioner for the District of Oregon, said affidavit, search warrant and inventory and return being hereto annexed and marked "Petitioner's Exhibit A." Said Exhibit A being a duly certified copy of the said proceedings certified to by G. H. Marsh, Clerk of the United States District Court for the District of Oregon under date of April 20, 1921, by L. S. Rogers, Deputy Clerk, attested with the seal of said court.

That your petitioner at said time also leased, occupied and controlled offices at 220 Chamber of Commerce Bldg., Portland, Oregon, and that on the said 28th day of December, 1918, certain officers of the United States Government whose names are to the petitioner unknown, unlawfully and without proper warrant or authority so to do, entered your petitioner's offices and seized all of his books, letters, papers, notes, diaries, legal instruments, and other personal property in said offices which petitioner is now unable to describe, and this in violation of the fourth and fifth Amendment to the Constitution of the United States and also in violation of the Act of June 15, 1917, Chapter 30, Title 11, Sections 1-23 thereof, 40 Stat. 217-228, United States Laws, also known as Chapter 16 of

Barnes Federal Code, being paragraphs 10050-10069 inclusive.

That said forcible seizing and taking of papers and other personal property from the offices of your petitioner was under the color of a purported and alleged search warrant based on an alleged affidavit of one W. R. Bryon, a United States official, said warrant being issued by the Hon. Frederick H. Drake, United States Commissioner for the District of Oregon, said affidavit, search warrant and inventory and return being hereto annexed and marked "Petitioner's Exhibit B," said Exhibit B being a duly certified copy of said proceedings certified to by G. H. Marsh, Clerk of the United States District Court for the District of Oregon, under date of April 20, 1921, by L. S. Rogers, Deputy Clerk, attested with the seal of said court.

Petitioner by his reference to Exhibits A and B makes the said exhibits a part of this petition.

That the United States District Attorney, Marshal and Clerk of the United States Court for the District of Oregon took the above described property and the property more particularly described in the alleged inventory and return in Exhibits A and B and seized as heretofore described, in their possession and have failed and refused to return to the defendant a portion of the same, to-wit: one volume of carbon copies of letters, two volumes of diaries and memorandums, and loose pages thereof, and certain other property which peti-

tioner is now unable to describe.

That said property is being unlawfully and improperly held by said United States District Attorney, Marshal, and Clerk of the United States Court for the District of Oregon in violation of defendant's rights under the Constitution of the United States and also of the laws of the United States.

That said District Attorney proposes to use said books, letters, papers, etc., at the trial of the above entitled cause, and that by reason thereof and of the facts above set forth, petitioner's rights under the Amendments aforesaid to the Constitution of the United States and the laws of the United States have been and will be violated unless the court orders the return prayed for herein.

Petitioner alleges that the said search warrant and proceedings thereunder heretofore set forth in Exhibits A and B among other defects are defective and void by reason of the following: That the affidavit upon which said search warrants, and each of them, was issued does not set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist; that the affidavit, and each of them heretofore referred to, does not particularly describe the property to be seized; that said affidavit, or either of them, does not state that the alleged felony or crime concerning which papers, etc., are to be seized, was committed, if at all, within the Statute of

Limitation as provided by law; that no copy of the heretofore described warrants, or either of them, or receipt for the property so seized, (specifying it in detail), was given to the person from whom it was taken or in whose possession it was found, nor was any receipt left in the place where the property was found; that no inventory describing said property in detail was ever made or filed by anyone in either of the above search warrant proceedings; that no order of any proper judge or commissioner was ever made finding that the property or papers taken under said search warrants, or either of them, is the same as that described in the warrants, or that there is probable cause for believing the existence of the grounds on which the warrants were issued; that no order of any proper judge or commissioner was ever made ordering the retention or custody or other disposition of any of the property so seized.

That all of the foregoing proceedings herein alleged were in plain violation of the fourth and fifth Amendment of the Constitution of the United States and of the laws of the United States, and that your petitioner's constitutional and legal rights will be further violated unless the court orders the return prayed for herein;

WHEREFORE, your petitioner respectfully prays that said United States District Attorney, Marshal, and Clerk, all of the District of Oregon, be notified, and that the court direct and order said United States

District Attorney, Marshal, and Clerk to return said property so seized to said petitioner, together with any and all copies, stenographic or photographic or otherwise made thereof.

And your petitioner will ever pray!

(Sgd.) JOSEPH WOERNDLE,

Petitioner.

(Sgd.) W. P. LA ROCHE,

C. T. HAAS,

Solicitors for Defendant.

STATE OF OREGON,

COUNTY OF MULTNOMAH, ss.

I, Joseph Woerndle, being first duly sworn, depose and say: that I am the above named petitioner, and that I have read the foregoing petition and that I believe the same to be true.

So help me God!

(Sgd.) JOSEPH WOERNDLE,

Affiant.

Subscribed and sworn to before me, a notary public, this 30th day of November, 1921.

(Sgd.) C. T. HAAS,

Notary Public for Oregon.

My commission expires February 8, 1925.

PETITIONER'S EXHIBIT A.

UNITED STATES OF AMERICA,

District of Oregon, ss.

On this 28th day of December, 1918, before me, Frederick H. Drake, United States Commissioner for the District of Oregon, comes W. R. Bryon, Special Agent of the Department of Justice, and upon oath says that he has good reason to believe and does verily believe that within and upon certain premises within said district, to-wit: On the premises of Joseph Woerndle, at 710 Flanders Street, in the City of Portland, County of Multnomah, State of Oregon, there has been concealed and is now concealed in and about said premises occupied by said Joseph Woerndle at said place, certain property, to-wit:

Certain letters, correspondence, books, papers, telegrams, checks, cablegrams, and documents and stenographic notes concerning the same, used in the dealings between said Joseph Woerndle and Hans Boehme, alias Jelks LeRoy Thrasher, J. H. Brogan, the firm of Woerndle & Hansen, Elsie Ambruster, one Ruiz, and others,

Which said property has been used as a means to commit certain felonies, that is to say, the felony of furnishing to another to use a passport, the issue of which was secured by false statements, and the felony of falsely making and causing to be falsely made a passport with the intent that the same should be used by another.

WHEREFORE, this affiant prays that a search warrant authorizing the Marshal of the United States for

said district, or his deputies, or any or either of them, to search said premises in the day time and to seize and take such property into his or their possession, pursuant to the statute in such case made and provided.

W. R. BRYON.

Subscribed and sworn to before me this 28th day of December, 1918.

(Seal)

FREDERICK H. DRAKE,
United States Commissioner for
the District of Oregon.

SEARCH WARRANT

UNITED STATES OF AMERICA,

District of Oregon, ss.

THE PRESIDENT OF THE UNITED STATES
OF AMERICA

To the Marshal of the United States for the District
of Oregon and his deputies or any or either of them:
GREETING:

WHEREAS, W. R. Bryan, Special Agent Dept. of Justice, has this day made oath in writing before me, FREDERICK H. DRAKE, a United States Commissioner for the District of Oregon, alleging that he has reason to believe and does believe that a violation of the laws of the United States, to-wit, Section 37 P. C., has been and is being committed upon and by the use of certain premises in this district, to-wit:

Premises of Joseph Woerndle, 710 Flanders

Street, Portland, Oregon,
 in this that there has been concealed and is now concealed in and about said premises certain property, to-wit, certain letters, books, papers, documents, telegrams, cablegrams, checks, etc., used in dealings between one Joseph Woerndle and Hans Boehme, et al, which said property has been used as a means to commit certain felonies, to-wit: to secure the use of a passport, the issue of which was secured by false statements, for the use of another:

NOW THEREFORE, you are hereby authorized and commanded, in the name and by the authority aforesaid, forthwith to enter said premises, with the necessary and proper assistance, and there investigate and search into and concerning said crime and to make proper return thereof.

WITNESS my hand and seal at Portland, in said district, this 28th day of December, 1918.

FREDERICK H. DRAKE,
 (Seal) United States Commissioner
 District of Oregon.

UNITED STATES OF AMERICA,
 District of Oregon, ss.

I hereby certify and return that I served the annexed search warrant on Mrs. Joseph Woerndle, at 710 Flanders Street, Portland, Oregon, by reading same to her.

I further certify and return that I took into my possession the following, to-wit:

(1) 1 russett suitcase containing miscellaneous correspondence and post cards.

(2) 2 letter files containing miscellaneous correspondence.

(3) 2 wooden boxes containing miscellaneous correspondence and photographs.

(4) 1 pasteboard suit box containing miscellaneous correspondence post cards.

(5) 1 pasteboard carton containing miscellaneous correspondence and post cards.

(6) 1 picture of Hans Boehme in full Imperial German uniform, mounted in a frame displaying German eagle and military coat of arms at top and bottom of same.

(7) 1 Imperial German military saber and scabbard, property of Hans Boehme, mounted on a frame on which appears the German coat of arms.

Done and dated at Portland, Oregon, on the 28th day of December, 1918.

GEO. F. ALEXANDER,

United States Marshal for the
District of Oregon.

By MARK HOLMES, Deputy.

Filed, December 28, 1918, F. H. Drake, U. S. Commissioner.

Filed, November 14, 1919, G. H. Marsh, Clerk, U. S. District Court.

UNITED STATES OF AMERICA,

District of Oregon, ss.

I. G. H. MARSH, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing copy of affidavit for search warrant of premises at 710 Flanders Street, Portland, Oregon, and search warrant issued thereon, together with return of service, has been by me compared with the original thereof, and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record and on file at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Portland, in said District, this 20th day of April, 1921.

G. H. MARSH, Clerk.

(Seal) By L. S. ROGERS, Deputy Clerk.

PETITIONER'S EXHIBIT B

UNITED STATES OF AMERICA,

District of Oregon, ss.

On this 28th day of December, 1918, before me, Frederick H. Drake, United States Commissioner for the District of Oregon, comes W. R. Bryon, Special Agent of the Department of Justice, and upon his oath says that he has good reason to believe and does verily

believe that within and upon certain premises within said district, to-wit: In the office of Joseph Woerndle at number 220 Chamber of Commerce Building, in the City of Portland, County of Multnomah, State of Oregon, there has been concealed and is now concealed in and about said premises certain property, to-wit:

Certain letters, correspondence, books, papers, telegrams, checks, cablegrams, and documents, and stenographic notes of the same, used in the dealings between said Joseph Woerndle and Hans Boehme, alias Jelks LeRoy Thrasher, J. H. Brogan, the firm of Woerndle & Hansen, Elsie Armbruster, one Ruiz, and others,

Which said property has been used as a means to commit certain felonies, that is to say, the felony of furnishing to another to use a passport, the issue of which was secured by false statements, and the felony of falsely making and causing to be falsely made a passport with the intent that the same should be used by another.

WHEREFORE, this affiant prays that a search warrant authorizing the Marshal for said district, or his deputies, or any or either of them, to search said premises in the day time and to seize and take such property into his or their possession, pursuant to the statute in such case made and provided.

W. R. BYRON.

Subscribed and sworn to before me this 28th day of December, 1918.

FREDERICK H. DRAKE,
United States Commissioner for
the District of Oregon.

UNITED STATES OF AMERICA,

District of Oregon, ss.

This is to certify and return that I have on the 28th December, 1918, searched the within mentioned premises and seized articles enumerated on back of warrant.

G. F. ALEXANDER,
United States Marshal.

By R. D. CARTER, Deputy.

Dated at Portland, Oregon, this 28th day of December, 1918.

SEARCH WARRANT.

UNITED STATES OF AMERICA,

District of Oregon, ss.

THE PRESIDENT OF THE UNITED STATES
OF AMERICA

To the Marshal of the United States for the District
of Oregon and his deputies or any or either of them:
GREETING:

WHEREAS, W. R. Bryan, Special Agent Dept. of Justice, has this day made oath in writing before me, FREDERICK H. DRAKE, a United States Commis-

sioner for the District of Oregon, alleging that he has reason to believe and does believe that a violation of the laws of the United States, to-wit, Section 37, P. C., has been and is being committed upon and by the use of certain premises in this district, to-wit:

Office of Joseph Woerndle, at No. 220 Chamber of Commerce Building, Portland, Oregon, in this that there has been concealed and is now concealed in and about said premises certain property, to-wit, certain letters, books, papers, documents, telegrams, cablegrams, checks, etc., used in dealings between one Joseph Woerndle and Hans Boehme, et al, which said property has been used as a means to commit certain felonies, to-wit: to secure the use of a passport, the issue of which was secured by false statements, for the use of another:

NOW THEREFORE, you are hereby authorized and commanded, in the name and by the authority aforesaid, forthwith to enter said premises, with the necessary and proper assistance, and there investigate and search into and concerning said crime and to make proper return thereof.

WITNESS my hand and seal at Portland, in said district, this 28th day of December, 1918.

FREDERICK H. DRAKE,

(Seal)

United States Commissioner,
District of Oregon.

(On back of warrant):

4 filing cases full papers.

2 bound books of letters.

16 copies Bundes Wacht.

1 volume of letters and scrapbook.

6 small red books. Mem.

1 red mem. book.

1 linen back order book.

1 paper envelope with In re H. W. Boehme.

Envelope with citizenship papers of Jos. Worener.

Articles Incorp. of Golden Rod M. & M. Co.

102 stenographer's note books.

Filed, December 28, 1918, F. H. Drake, U. S. Commissioner.

Filed, November 14, 1919, G. H. Marsh, Clerk, U. S. District Court.

UNITED STATES OF AMERICA,

District of Oregon, ss.

I, G. H. Marsh, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing copy of affidavit for search warrant to search premises No. 220 Chamber of Commerce Building, Portland, Oregon, and search warrant issued thereon together with return of service, has been by me compared with the original thereof and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record

and on file at my office and in my custody.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Portland, in said district, this 20th day of April, 1921.

(Seal)

G. H. MARSH, Clerk.

By L. S. ROGERS, Deputy Clerk.

AND AFTERWARDS, to-wit, on the 5th day of December, 1921, an order was duly made in said court and cause as follows:

ORDER FOR RETURN OF PROPERTY

This matter coming on for hearing on the motion of defendant for an order requiring the return to defendant of certain papers, books and other property taken from him by the United States Marshal on the 28th day of December, 1918, under color of a search warrant, plaintiff appearing by the United States Attorney and the defendant appearing by W. P. La Roche and C. T. Haas; and the court after hearing arguments of counsel and the United States District Attorney having admitted in open court that the search warrants in question do not comply with statutory and constitutional requirements, and the court being fully informed in the premises, now therefore,

IT IS ORDERED that the United States Attorney, United States Marshal and Clerk of this court return to the defendant Joseph Woerndle, all property in their possession taken by the said Marshal on December 28,

1918, under color of said search warrant or search warrants.

IT IS FURTHER ORDERED that the said United States Attorney, United States Marshal and the Clerk of this court are not directed or required to deliver to said defendant any or all copies, stenographic, photographic or otherwise, made of any of the things so taken by the said Marshal on December 28, 1918, under color of said search warrant. Questions as to the admissibility in evidence of such books, papers or property or copies thereof are reserved until the trial of this case.

AND AFTERWARDS, to-wit, on the 24th day of December, 1921, the United States Attorney filed in said court a certificate as follows:

CERTIFICATE

I, Lester W. Humphreys, United States Attorney for the District of Oregon, certify that on the 13th day of December, 1921, pursuant to an order of the above entitled court in the above entitled cause, I delivered to the defendant, Joseph Woerndle personally and in person, all the property of the said Joseph Woerndle taken from him under color of search warrant, in my possession, to-wit:

1 book described on the fly leaf "Tagebuch des Joseph Woerndle, Volume II," containing entries beginning January 1, 1921, together with an extra sheet

containing pages 109 and 110.

1 bound volume of carbon copies of letters.

1 letter containing an envelope bearing postmark "Salt Lake City, Utah, Feb. 7, 1916, addressed to Joseph Woerndle, the letter being typewritten, dated Lille, France, Jan. 3, 1916 and signed in typewriting H. W. B. Berlin—Holenees Kurfuerstendamm—100,3.

1 carbon copy of letter in German, dated Feb. 18, 1916, addressed Lieber Vater and mutter.

1 carbon copy of letter in German, dated 5-31-15 addressed Mein lieber Herr Horner, signed Joseph Woerndle.

1 carbon copy of letter in German, dated July 26, 1915, addressed to Herrn Kaspar Worndl and signed Euer dankbarer sohn.

1 carbon copy of letter in German, dated Mai 14, 1915, addressed Liebe Eltern and signed Euer dankbarer sohn.

1 carbon copy of letter in German, dated Jan. 20, 1916, addressed Herrn Kaspar Worndl Jr., signed Dein treuer bruder.

1 carbon copy of letter in German, dated Dec. 10, 1915; addressed Herrn Kaspar Worndl, Jr., and signed Dein dir treuer bruder.

1 carbon copy of letter in German, dated Nov. 26, 1915, addressed Herrn Kaspar Worndl, signed Dein dich liebender dankbarer sohn.

1 carbon copy of letter in German, dated 5-31-15,

addressed Lieber bruder Kaspar and signed Dein ergebener brudar Joseph Woerndle.

1 carbon copy of letter in German, dated 6-5-15, addressed Liebe Tante signed Dein dankbarer neffe, Joseph Woerndle.

1 carbon copy of letter in German, dated Mai 8-16 addressed Herrn Donatus Woerndle and signed Dein dich liebender treuer bruder.

1 carbon copy of letter in German, on two sheets, dated Nov. 26, 1915 addressed Herrn Kaspar Worndl, Jr., and signed Dein dir treuer anhaenglicher bruder.

1 carbon copy of letter in German, dated Sept. 15, 1917, addressed Herrn Kaspar Worndl and signed Dein stets dankbarer sohn.

1 carbon copy of letter in German, dated 6-3-15, addressed Meine Liebe tante and signed Dein dich libender neffe, on the reverse side of which is a carbon copy of letter in German dated 6-3-15 addressed Meine Liebe tante and signed Dein treuer dich libender neffe.

1 carbon copy of letter in German dated Feb. 18, 1916, addressed Frau Donatus Worndl and signed Dein aufrichtiger schwager.

1 carbon copy of letter in German, dated Feb. 18, 1916, addressed Frau Anna Woerndle and signed Dein dir dankbarer neffe, Joseph Woerndle.

1 photograph of Hans W. Boehm in German uniform in frame with German Coat of Arms.

1 saber and scabbard in frame with German Coat of Arms.

LESTER W. HUMPHREYS,
United States Attorney.

AND AFTERWARDS, to-wit, on the 14th day of February, 1922, there was duly filed in said court and cause a motion as follows:

MOTION FOR PRODUCTION OF DOCUMENTS

NOW COMES the plaintiff, by Lester W. Humphreys, United States Attorney for the District of Oregon, and moves the court for an order that defendant be required to produce at the trial of the above entitled cause, the following:

1 book described on the fly leaf "Tagebuch des Joseph Woerndle, Volume II," containing entries for the year 1914, together with an extra sheet containing pages 109 and 110 of said book.

1 bound volume of carbon copies of letters containing a letter dated October 3, 1914, addressed "His Excellency Wm. J. Bryan, Secretary of State, Washington, D. C.

1 letter contained in an envelope bearing postmark "Salt Lake City, Utah, Feb. 7, 1916, addressed to Joseph Woerndle, the letter being typewritten, dated Lille, France, Jan. 3, 1916, and signed in typewriting H. W. B. Berlin—Holenees Kurfuerstendamm—100.3.

1 carbon copy of letter in German, dated Feb. 18,

1916, addressed Lieber Vater and mutter.

1 carbon copy of letter in German, dated 5-31-15, addressed Mein Lieber Herr Horner, signed Joseph Woerndle.

1 carbon copy of letter in German, dated July 26, 1915, addressed to Herrn Kaspar Worndl and signed Euer dankbarer sohn.

1 carbon copy of letter in German, dated Mai 14, 1915, addressed Liebe Eltern and signed Euer dankbarer sohn.

1 carbon copy of letter in German, dated Jan. 20, 1916, addressed Herrn Kaspar Worndl, Jr., signed Dein treuer bruder.

1 carbon copy of letter in German, dated Dec. 10, 1915, addressed Herrn Kaspar Worndl, Jr., and signed Dein dir treuer bruder.

1 carbon copy of letter in German, dated Nov. 26, 1915, addressed Herrn Kaspar Worndl, signed Dein dich liebender dankbarer sohn.

1 carbon copy of letter in German, dated 5-31-15, addressed Lieber bruder Kaspar and signed Dein ergebener bruder Joseph Woerndle.

1 carbon copy of letter in German, dated 6-5-15, addressed Liebe Tante signed Dein dankbarer neffe, Joseph Woerndle.

1 carbon copy of letter in German, dated Mai 8-16, addressed Herrn Donatus Woerndle and signed Dein dich liebender treuer bruder.

1 carbon copy of letter in German, on two sheets, dated Nov. 26, 1915, addressed Herrn Kasper Worndl, Jr., and signed Dein dir treuer anhaenglicher bruder.

1 carbon copy of letter in German, dated Sept. 15, 1917, addressed Herrn Kaspar Worndl and signed Dein stets dankbarer sohn.

1 carbon copy of letter in German, dated 6-3-15, addressed Meine Liebe tante and signed Dein dich libender neffe, on the reverse side of which is a carbon copy of letter in German dated 6-3-15 addressed Meine Liebe tante and signed Dein treuer dich libender neffe.

1 carbon copy of letter in German dated Feb. 18, 1916, addressed Frau Donatus Worndl and signed Dein aufrichtiger schwager.

1 carbon copy of letter in German, dated Feb. 18, 1916, addressed Frau Anna Woerndle and signed Dein dir dankbarer neffe, Joseph Woerndle.

1 photograph of Hans W. Boehm in German uniform in frame with German Coat of Arms.

1 saber and scabbard in frame with German Coat of Arms.

This motion is based upon the records and files in the above entitled court and cause and upon the affidavit hereto attached.

Dated at Portland, Oregon, this 14th day of February, 1922.

LESTER W. HUMPHREYS,

United States Attorney.

I hereby certify that in my opinion each and all of the foregoing documents and things will be relevant and material at the trial of the issue in the above entitled court and cause.

LESTER W. HUMPHREYS,

United States Attorney.

AFFIDAVIT

UNITED STATES OF AMERICA,

DISTRICT OF OREGON, ss.

I, Lester W. Humphreys, being first duly sworn, say:

That I am United States Attorney for the District of Oregon; that I make this affidavit in support of the motion and to which this affidavit is attached; that the books, letters, papers and things set out in the attached motion, are in the possession or under the control of the defendant; that said books, letters, papers and things are pertinent and material to the issues in the above entitled case for the following reasons:

This is a case wherein the United States seeks to cancel the citizenship of Joseph Woerndle upon the ground of fraud in the procurement of said citizenship, as alleged in the plaintiff's bill in this cause to which reference is made for greater particularity. That at the trial of this cause, plaintiff will endeavor to prove

by conduct and statements of the defendant, subsequent to the time of his naturalization, what his condition of mind was at the time he was admitted to citizenship and renounced allegiance to the Emperor of Germany and declared his allegiance to the United States; that the book referred to as "Tagebuch des Joseph Woerndle, Volume II," with extra sheets containing page 109 and 110 of said book, contain entries written in the hand writing of defendant between the 1st and 6th of October, 1914, and at other times showing that the defendant then knowing that one Hans W. Boehm intended to return to Germany to join the colors, made an application to the Secretary of State of the United States for a passport intending that said passport should be used by Hans W. Boehm, and to enable the said Hans W. Boehm to travel in the name of Joseph Woerndle from the United States to Germany.

That the book described as bound volume of carbon copies of letters contains the carbon copy of a letter written by the defendant on the 3rd of October, 1914, transmitting the application for passport, above referred to, to the Secretary of State at Washington, D. C.; that the letter referred to in the attached motion, dated Lille, France, Jan. 3, 1916, contains a statement of said Hans W. Boehm to the defendant Joseph Woerndle that he, the said Hans W. Boehm, was a German Captain detailed to the General Staff and a Knight of the Iron Cross; that the several carbon copies of letters in German, referred to in the attached motion, are material and pertinent in that they con-

tain expressions of the attitude of the defendant as between the United States and Germany, when the defendant believed that the United States was about to enter the war, and such letters show that in those circumstances the allegiance of the defendant was with Germany and not with the United States; that said letters contain statements of which the following is typical:

"Judging by present circumstances, this country too will be at war with Germany, dear, beloved, unfortunate, Germany * * * If I were over there today, as I was three years ago, I would not hesitate to sacrifice my all for the beloved old Fatherland. For now, for the first and for perhaps the last time, Germany is in need of the utmost help from child to old man in order to be saved from the claws of its arch enemies, England and her Allies. * * * If it was not for my family here, I should long ago gone back to my old home in order to help in this time of heaviest need, but as things are now, that is impossible. * * * The United States like the mob would be glad of the opportunity to "hand Germany one," but I guess the German michel dos'nt have to be very much afraid. The United States is very loud mouthed, but when it comes to action, very lame. This nation couldn't even force rotten Mexico to salute the American flag."

The foregoing quotations are taken from a translation of a carbon copy of a letter in German, dated Mai 14, 1915, addressed "Liebe Eltern and signed Euer dankbarer sohn, referred to in the attached motion.

Another letter dated June 5, 1915, addressed "Liebe Tante" and signed "Dein dankbarer neffe" referred to in the attached motion contains among other things, the following:

"I am ashamed of the attitude of the American Nation, because they can never make reparation for it, but in spite of all activities and diligence and efforts of the Germans in Washington, no impression seems to be made. * * * If I were in Germany, as I was three years ago, I would gladly allow myself to be put in uniform or in any other way be of use to the Fatherland. * * * This is probably the last letter I will be able to send you directly, because if I don't deceive myself, the American Government is trying with all its power to break relations with Germany, and when once diplomatic relations are broken then a declaration of war will not be long in coming. Then perhaps something will take place here that no one has any idea of."

That the photograph of Hans W. Boehm, in German uniform in a frame with the German Coat of Arms, is pertinent and material because this photograph was delivered to the defendant by Hans W.

Boehm on the 3rd or 4th of October, 1914, at the time the defendant applied for a passport for the use of Boehm, as above stated, and shows that the defendant Woerndle then knew the military character of said Hans W. Boehm.

The saber and scabbard, in frame, referred to in the attached motion, were delivered by Boehm to Woerndle at the same time with the photograph, above referred to, and is a circumstance indicating the defendant's knowledge of the German military character of Boehm.

That all the items referred to in the attached motion were taken from the possession of the defendant Joseph Woerndle, under a search warrant and were heretofore delivered to the defendant Woerndle personally by affiant in obedience to an order in the above entitled court.

LESTER W. HUMPHREYS.

Subscribed and sworn to before me this 14th day of February, 1922.

JOHN C. VEATCH,
Notary Public for Oregon.

My commission expires: 11/14/24.

AND AFTERWARDS, to-wit, on the 27th day of February, 1922, an order was made in said court and cause as follows:

ORDER TO PRODUCE DOCUMENTS

THIS CAUSE coming on for hearing on motion of plaintiff for an order that defendant be required to produce at the trial of the above-entitled cause in this court, certain books, letters, papers and other things, plaintiff appearing by Lester W. Humphreys, United States Attorney, and defendant appearing by Walter P. La Roche and C. T. Haas,

IT IS ORDERED that the defendant herein produce in the above entitled court, at the trial of the above entitled cause, on March 14, 1922, the following:

1 book described on the fly leaf "Tagebuch des Joseph Woerneld, Volume II," containing entries for the year 1914, together with an extra sheet containing pages 109 and 110 of said book.

1 bound volume of carbon copies of letters containing a letter dated October 3, 1914, addressed "His Excellency Wm. J. Bryan, Secretary of State, Washington, D. C."

1 letter contained in an envelope bearing postmark "Salt Lake City, Utah, Feb. 7, 1916, addressed to Joseph Woernldle, the letter being typewritten, dated Lille, France, Jan. 3, 1916, and signed in typewriting H. W. B. Berlin—Holenees Kurfuerstendamm—100.3."

1 carbon copy of letter in German, dated Feb. 18, 1916, addressed Lieber Vater and mutter.

1 carbon copy of letter in German, dated 5-31-15,

addressed Mein Lieber Herr Horner, signed Joseph Woerndle.

1 carbon copy of letter in German, dated July 26, 1915, addressed to Herrn Kasper Worndl and signed Euer Dankbarer sohn.

1 carbon copy of letter in German, dated Mai 14, 1915, addressed Liebe Eltern and signed Euer Dankbarer sohn.

1 carbon copy of letter in German, dated Jan. 20, 1916, addressed Herrn Kasper Worndl, Jr., signed Dein treuer bruder.

1 carbon copy of letter in German, dated Dec. 10, 1915, addressed Herrn Kasper Worndl, Jr., and signed Dein dir treuer bruder.

1 carbon copy of letter in German, dated Nov. 26, 1915, addressed Herrn Kasper Worndl, signed Dein dich liebender dankbarer sohn.

1 carbon copy of letter in German, dated 5-31-15, addressed Lieber bruder Kasper and signed Dein ergebener bruder Joseph Woerndle.

1 carbon copy of letter in German, dated 6-5-15, addressed Liebe Tante signed Dein dankbarer neffe, Joseph Woerndle.

1 carbon copy of letter in German, dated Mai 8-16, addressed Herrn Donatus Woerndle and signed Dein dich liebender treuer bruder.

1 carbon copy of letter in German, on two sheets, dated Nov. 26, 1915, addressed Herrn Kasper Worndl,

Jr., and signed Dein dir treuer anhaenglicher bruder.

1 carbon copy of letter in German, dated Sept. 15, 1917, addressed Herrn Kasper Worndl and signed Dein stets dankbarer sohn.

1 carbon copy of letter in German, dated 6-3-15, addressed Meine Liebe tanta and signed Dein dich liebender neffe, on the reverse side of which is a carbon copy of letter in German dated 6-3-15 addressed Meine Liebe tante and signed Dein treuer dich liebender neffe.

One carbon copy of letter in German dated Feb. 8, 1916, addressed Frau Donatus Worndl and signed Dein aufrichtiger schwager.

One carbon copy of letter in German dated Feb. 8, 1916, addressed Frau Anna Woerndle and signed Dein dir dankbarer neffe, Joseph Woerndle.

1 photograph of Hans W. Boehm in German uniform in frame with German Coat of Arms.

1 saber and scabbard in frame with German Coat of Arms.

Objections on the part of the defendant to admission in evidence at the trial of any of the foregoing and all questions touching the constitutional rights of the defendant in connection therewith, are reserved for consideration at the trial and may be urged by defendant at said trial.

Dated at Portland, Oregon, February 27, 1922.

AND AFTERWARDS, on the 18th day of March, 1922, said cause came on for trial before the court,

And on the 18th day of March, 1922, there was duly filed in said court and cause a stipulation as follows:

STIPULATION OF FACTS

IT IS HEREBY STIPULATED AND AGREED by the parties hereto by their attorneys, that at the trial of the above entitled cause the facts hereinafter stated shall be taken and deemed to be true; that no evidence thereof shall be required to be offered or produced by either of the parties hereto and the parties hereby expressly waive any and all objections of every kind as to the manner of proof and as to the sufficiency of the proof of the facts hereinafter stated. All other objections as to the competency, relevancy and materiality of these facts are reserved.

This stipulation may be read at the trial by either of the parties hereto. The facts hereby stipulated are:

Defendant, Joseph Woerndle, was born at Bernau, Bavaria, Germany, August 3, 1880, of German parents; said defendant emigrated to the United States, sailing from Bremen, Germany, in July, 1897. That said defendant Joseph Woerndle, at the time of his hearing in open court on his application for naturalization on the 23rd day of August, 1904, in the Superior Court of the State of Washington, for Pacific County, and as a part of defendant's naturalization proceedings,

declared on oath before the said Superior Court of the State of Washington for Pacific County that he absolutely and entirely renounced and abjured all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Emperor of Germany of whom he was a citizen or subject and then and there took the oath in the prescribed form, that he would support the Constitution of the United States of America.

That in October, 1914, one Hans W. Boehm was subject to call in the German army; that from February, 1914, until the 6th of October, 1914, the said Hans W. Boehm resided at Portland, Oregon; that in October, 1914, and particularly from October 1st to October 6th, 1914, the defendant, Joseph Woerndle, was personally acquainted with said Hans W. Boehm and that said defendant then and there knew that said Hans W. Boehm was a citizen and subject of Germany and subject to military service of Germany, and that said Hans W. Boehm was then and there desirous of departing from the United States and returning to Germany to enter the military service of Germany.

Prior to the 3d day of October, 1914, Boehm discussed with Woerndle, Boehm's desire to return to Germany and join the colors.

On the 3d day of October, 1914, by agreement between Hans W. Boehm and defendant Joseph Woerndle, an application for a passport for Joseph Woerndle

was executed, thereafter the name "Joseph Woerndle" was signed to the said application by the said Hans W. Boehm and the passport being intended for the use of Hans W. Boehm. Whereupon Hans W. Boehm with the knowledge and consent of the defendant, Joseph Woerndle transmitted the said application for passport to the Secretary of State of the United States of America, with directions that the passport be sent addressed "Joseph Woerndle, c/o Waldorf-Astoria Hotel, New York City." Defendant, Joseph Woerndle, then and there delivered to said Hans W. Boehm a certified copy of the certificate of citizenship of defendant Joseph Woerndle, and an original patent for land in California to be used by the said Boehm in identifying himself as Joseph Woerndle.

On the said 3d day of October, 1914, the defendant, Joseph Woerndle, made the following entry in a diary on page 109 thereof:

"Boehm gave me power of atty. and drew will. I will furnish him with pass—& U. S. citizen papers so he can travel in my name. Also gave him my California land patents for identification. Instructed Secretary of State to forward pass when made out to my address c/o Waldorf-Astoria, New York, where Boehm will call for it. Out with Paul Wessinger. Wessinger signed my application for pass as witness, saying he knew me 8 years."

Thereafter, on or about the 4th day of October, 1914, the said Hans W. Boehm placed in the custody of said defendant, Joseph Woerndle, the following articles of personal property:

One Shotgun

One Hat box

One clock

Two Pictures

One Saber

Fishing tackle and basket

Key to Safe Deposit Box

Abstract and storage receipt.

On the 6th day of October, 1914, Hans W. Boehm left Portland, Oregon, went to the Waldorf-Astoria Hotel at New York City, there asked for and received the passport issued to Joseph Woerndle on the aforesaid application of October 3, 1914, and the said Hans W. Boehm thereafter used the name and passport of Joseph Woerndle, traveled to Europe and thence forward, was active in the German military service while pretending to be Joseph Woerndle, an American citizen.

Thereafter and subsequent to October, 1916, Joseph Woerndle cut from his diary page 109 thereof containing the entry of October 3, 1914, above quoted and pasted in place thereof another page upon which he had re-written and consolidated the entries of October 2 and 3, 1914, said substituted re-written entries being as follows:

"Had a grand dinner with Paul Wessinger
and H. W. Boehm. Maybe I can't go with
 Boehm after all, but he says he will go in spite of
 hell. I only pity my poor father but then my own
 family and children. Cecelia does not want me to
 go and maybe I won't but can't just stay. At any
 rate I will get my passport in shape so as to have
 that part ready if I should decide to go. Wrote
 to Sec. of State to forward my pass to Waldorf-
 Astoria Hotel where I will call for it. Boehm
 urges all he can for me to go with him. Maybe I
 will but there will be a surprise when I am gone."

Constitutional and statutory rights and objections of
 defendants in reference to following letters are re-
 served.

On the 31st day of May, 1915, defendant Joseph
 Woerndle wrote to one Hoerner a letter in German as
 follows:

"5/31/15

My dear Mr. Hoerner:

Reading the news as they come over from all
 sides, I am overcome with a feeling of sadness, and
 as it now seems, and judging from today's even-
 ing paper headlines, only God Almighty can save
 us from war with my own Fatherland. It seems
 now as if the American Government has lost its
 head or is about to lose it. What will all happen
 if this takes place is hard to imagine. One shud-

ders by the thought. The good, beautiful land where my cradle stood, poor, poor, Germany. The sword in hand it is now fighting nearly against the whole world. I shudder at the thought. What will all yet happen and what will be the outcome. Sad enough that our Government supplies the English ragpack and others with shiploads of ammunition, but wants now also to declare war on Germany. Almost unbelievable, and yet it may come to pass. For Germany to do what the Government here demands is unthinkable, because should they do that and call off submarine warfare, they may just as well ask for peace, for many hounds are the hares' death. But I hope it will not come that far. I cannot conceive how it is possible that Germany has held out this far, without provisions and soldier supply from without. And yet I expect and hope that Germany will come out victorious. How that is possible I cannot imagine, but she will and must be victorious. What is the consensus of opinion in Germany since now too Italy, the mutinous and treacherous brute, has drawn the dagger against Germany? How long is it possible for the supply of soldiers to last? I take from this evening's paper that the last reserves have already been called. Is this true? One cannot believe the local papers very much, and the German which now and then come over are al-

ready a month or two old when they get here. The whole matter is so immensely sad, with a solution not yet in sight. I received again yesterday newspapers from you, for which I thank you very much. I will send you from time to time newspaper clippings and newspapers so that you will also be posted about local happenings. My youngest brother was already drafted last January. Has 5 children and a wife. Horrible, if one thinks about it. Maybe the same will happen to us here. People here as it seems, are about to lose their whole sense, and it is hardly believable, that a country like ours, which has trumpeted out into the world the call of freedom and the protection of the weak, has stepped so low as to support a bloodstained, treacherous people like England, as it is now doing. But penalty will not remain away, and our neat Government will yet perhaps bitterly regret all. Him whom the Lord wishes to destroy, he smites with blindness, and the whole Wilson-Bryan Kraut will have a frightful responsibility for the millions of human lives destroyed thru our bullet manufacture. Write me please occasionally as to the true conditions and what you think of the future.

With hearty greetings to you and your good family, I am most respectfully,

Your devoted
(Sgd.) Joseph Woerndle."

On the 14th day of May, 1915, defendant, Joseph Woerndle, wrote a letter in German to his parents as follows:

"May 14, 1915.

Dear Parents:

Since I have not heard from you for a long time I take that my last letter to you has been lost. I set myself today again on the machine in the surmise that this perhaps will be the last letter for some time which may reach you. Judging from present conditions this country too will be involved in a war with Germany, loved, poor, unfortunate Germany. Haunted and persecuted by the whole world, under all possible excuses made, belied and invented. What the outcome may be is a riddle, but at any rate the whole world will rise in rebellion and when everything will be over, there will not be very many people left. What bullet and sword will not take, pest and collera will claim. It is horrible to think about it. And yet we have here in the land of plenty no conception. If I were out there today as 3 years ago, I would without hesitation sacrifice my all for loved old fatherland, for now for the first and perhaps the last time Germany is depending on all help from child to dotard to save it from the claws of

its archenemy, England and its allies. I learn with shudder of the colossal sacrifices which Germany now makes and its people, but it is better, a thousand times, to die the death for Fatherland than to eke out an existence in the shackles of the most sordid nation on earth, England. Were it not for my family here, I would have long ago returned to my old home to aid it in this time of greatest need, but as it is, such a thing is not possible. And Italy too will join the English, French and Russian hordes, and therefore will hope be put to a severe test. Times here are hard for many, for labor conditions are not the best, and thousands of people are out of employment, but we have nothing to complain, when one considers the misery of thousands, yes millions, who now have to suffer in Europe. Has Donat been drafted already? Hopingly not, for it would be horrible for his family. But perhaps nothing can be done. The American, moblike, would be glad if it could get one over on Germany, but the German Michael will not have to be afraid very much. The United States are noisy, but when it comes to do something they are slow. This nation could not force ragged Mexico to salute the American flag. They will not risk to go to Germany, otherwise the Japanese may soon take possession of the best part

of our coast, for they have aimed for it a long time. Our good President keeps shop open whenever it goes against the Germans, but whenever the English are guilty of anything, he is mum and blows the trumpet of peace. It fills me with sorrow if our beautiful country should be drawn into this sad war, for the will of the masses and the more sensible classes is not for it, but if it cannot be helped we will have to go to it, at least financially. Few Germans will shoulder arms, and of the others not many will put their head in front of a Howitzer and hence perhaps not everything will be lost at once. I am only sorry for the many human lives, but I may say to you, preserve to the last man for as I hope victory will yet go to the Germans.

Father, I would like very much if you would give Kaspar from allowance monthly Mk 10. I will instruct the German bank to send you monthly Mk 60. It will be awfully hard for poor Kaspar now, and this little gift buys him now and then a quart for his recuperation.

I am always very busy and work almost day and night. But there isn't much pay in it for the people have no money. I have bought me a little farm about 6 engl. miles or 2 hours west of Portland. 25 acres with house and barn. In my auto

I get there in 20 minutes. Wish you could be here with us on the "Farm." During vacation we will all move on the place. Running water, good soil, beautiful view with the lights of the city in sight.

We have beautiful weather and everything is in full blossom. The roses are all out and I fear there will not be any left for our rose carnival in June.

And now, dear Father, I will close for this time. I hope for the best, and hope that everything will pass over and that God may grant victory to Germany.

Write to me often, even if you do not get any letters from me, for half of the letters get lost.

Pray for me that I may remain well so that I can always support you.

Greeting you all heartily, I remain as ever

Your grateful son."

On the 31st day of May, 1915, defendant, Joseph Woerndle, wrote a letter in German to his brother Kaspar as follows:

"5/31/15

Dear Brother Kaspar:

I shall again try to write you, thinking that this letter may reach you. How it now looks at home I have no idea, since Italy too, the treacherous, mutinous pack has declared war on Germany and

Austria. It is horrible to think about it, and the outcome makes one shudder. Has Donat already been drafted with wife and 5 small children at home. And it now seems as if this country too wants to declare war on Germany. Considering the great sacrifice this war has cost already, one can hardly understand that there are yet soldiers left, without new additions or other supply from without. One can only do one thing and that is to leave all to God Almighty. How many have already fallen from the village of Bernau? And how many and who is in captivity? What do you think the future will bring? Kaspar, I have received the deed from Notary Weiss. I had it executed here and filed with my papers with a note, that if anything happens to me that it shall be sent to you. Kaspar, I do not know if after the war is over I will not return to the land of my cradle, and if I should do so would want to build a house on the place. I have three boys and these would perhaps be needed by my dear old Fatherland after the war. When the war is over I will know more how everything is. I have requested the bank at Munich to increase Father's allowance Mk 10 and requested him to give you Mk monthly so you can buy for yourself an extra little once in a while when you have to work hard. Write me how you are getting along and how your family is. Here

everything is as of yore. Business is very poor and altho I always have my hands full, people have no money to pay. Enclosed you will find a picture of my recently acquired farm. It lies about 6 engl. miles from Portland, and I can reach it in about 20 minutes in my car.

I often wish you could be here with us for a while. We have beautiful weather and roses have already blossomed, so early have they come out this year. Write me again soon how everything is and all news which occur. Sending my hearty greetings to you, your wife, children and little Godchild, and also Father, Mother, Donat, wife and children I remain as ever.

Your devoted brother.

Clothes would now hardly reach you, but I will try once more to send you a suit of clothes."

On June 3rd, 1915, defendant, Joseph Woerndle, wrote a letter in German to an aunt as follows:

"6/3/15

My dear aunt:

I received your dear letter just now and am very happy to have heard from you. I have written you twice already, but it seems that my letters have not reached you. I have not heard from you for a long time, and if you have written me, your letters did not get here. I am sorry your

husband has such a disease, and there cannot be much hope. Especially since he is so old. But then since there cannot be any hope, we must take everything in good grace. We have buried two weeks ago my dearest and oldest friend, W. Lengauer, to whom I first went when I came to America. He too suffered for the last two years from the same disease, and when he underwent an operation, he did not survive. I do not think that there is a cure except when a person sees to it in time. It is horrible about this war and the end is not yet in sight, and how it ends no one knows. I am ashamed of the action of the American government regarding Germany, for the people do not sanction these actions, but nothing can be changed. We do everything in our power to avoid the worst, but it's just like pouring water on a duck's back. But that America will be penalized for its double standard I have no doubt, just like Italy. My younger brother will already have joined the colors, since he was already drafted last December. Kaspar, the older one, is at home yet, since he is employed in the Post Office and they perhaps need him badly. Neither have I heard from Father for considerable time, and as you can imagine, he is worried very much. If I were out there I would also be found in the

trenches or on the battlefield—dead—. For I would not stay away. We have just received the news that Przemysl is fallen and in the hands of the confederates. What happy news but what against so many. We hope and pray that the Germans will win out in the end, but human strength only does not seem to make it possible. Now, dear Aunt, prepare yourself for the worst, for your strong constitution will prevail against it. Do your own thinking and work, rely only upon yourself and you will never be disappointed. If it should be possible for you to sell out, do so and invest your capital on interest, even if you have to lose a little, for you would avoid worry and cares, and would get your money regularly. Naturally the relatives of your husband would have no further concern for you after he is gone, and for that reason you must be double careful. Otherwise I am getting along all right. That is, I am in fairly good health and my family too. I am not earning anything for times here are miserable, and while we have a good practice, people have no money to pay for services. And now, dear Aunt, I shall close for this time. Have you the small cal. Goldpieces yet I sent you some time ago? I wish you would have a picture taken of all the goldpieces I sent you and send me a picture so I would know exactly how many you are yet lacking. Write me

again soon how you are and what happens. In the meantime I remain with hearty greetings to you and husband.

Your loving nephew."

On the 3rd day of June, 1915, defendant, Joseph Woerndle, wrote a letter in German to an aunt as follows:

"6/3/15.

My dear Aunt:

I have just received your letter of April 26th and learn with sadness of the illness of your beloved husband, but hope he will soon be all right again. Only do not lose courage and everything will be all right again. It is indeed horrible about this disastrous war, and I hope it will soon be over. The American way of dealing is much to be regretted and the consequences will not remain away. Just now news reached here that Przemysl was again conquered by the Austrians, which news naturally has caused considerable rejoicing among the Germans here. Otherwise everything is friendly towards England as far as the press is concerned, but not the people. Our ruling powers are related by kinship with the English aristocracy and there is where the dog lies buried. Could Washington rise from his grave he would be ashamed of our present administration, which as it appears, will

do anything to play into the hands of our archfoe, England. And too Italy, this low, treacherous band, has thrown herself into the arms of England. But she too will receive her reward for her high treason. Keep up hope, for God will righten everything, and Germany will and must be victorious. I have not heard from Father for some time and neither from my brothers. Donat was already drafted last December, and will no doubt be for some time on the firing line. And if I were out there, I would be found there too. And now, my dear Aunt, I must close for this time. Write me again soon and as often as you can for I always wait longingly for a letter from you. I wrote to you already a few times, but it seems all letters get lost. From you I have not received a letter for a long time. And now again hearty greetings to you and your dear husband. Hoping to hear from you again soon, I remain as ever your true, loving nephew."

On June 5th, 1915, defendant, Joseph Woerndle, wrote a letter in German to an aunt as follows:

"6/5/15.

Dear Aunt:

Your dear letter of March 28th has been received a short time ago, and I was real glad to hear from you. Yes, dear Aunt, it is horrible about this war, and an end not yet in sight. And now too

treacherous Italy is gone over to the other side and it seems to me that when this war is once over there will not be much young manhood left. I am ashamed of the action of the American nation for they can never make reparation for it, and yet in spite of all efforts and work it seems that the labors of the Germans make no impression in Washington. Under separate cover I am mailing you a copy of my newspaper. My editorial (signed) just about illustrates the true situation here. You also notice my appeal for aid, but so much has already been collected from other sources, and the people on account of growing indifferent, are not donating very much anymore. I wish I had the means, I would be glad to give all to beautiful old Fatherland to aid it in this hour of need. The young population, I imagine, will now make a meager showing on account of the heavy losses so far. Yesterday we received news that Przemysl again came into the hands of the Austrians and that the Bavarians have taken a heroic part in the assault. I only hope that the Italians will get their neck broke for them and the English deserve the most. If I were in Germany, as 3 years ago, I would gladly allow myself to be put in uniform, or otherwise be of benefit to the Fatherland. My younger brother perhaps has already been drafted, since he was last fall already examined and found able. With 4 or 5 children on

his hand and a sick wife, this is to be regretted. Kaspar perhaps cannot be spared by the postal authorities since they need him very bad. How everything will come out, God only knows. What do you think about it? Do you think that the Germans will be victorious? God grant it! Here everything is stagnant, and business is at a standstill. Wilson with his half bankrupt machine is trying to polster up with ammunition, powder and bullet trade his miserable stewardship, but he will not succeed and in one and one-half years he will be out. This monster will not again be reelected. And all in the most hypocritical fashion for "Humanity" and furthering of "Civilization." Such absurdity and hypocrisy. But he too will also get his reward. Perhaps after the war I will visit you, if only the climate were milder, but I cannot stand the cold weather. This is perhaps the last letter that I can send direct to you, for if I am not deceived, this country too tries to break with all force the peaceable relations with Germany, and if once diplomatic intercourse is suspended, a declaration of war will not be far off. Then something may develop here of which we have no conception. And now, dear Aunt, God be with you, for all will come out all right. Write me as often as you can. With heartiest greetings, I am as ever

Your grateful nephew."

On July 26th, 1915, defendant, Joseph Woerndle, wrote in German a letter to Kaspar Woerndl as follows:

"July 26, 1915.

Mr. Kaspar Wörndl,
Irschen, Post Bernau a/Chimsee,
Bayern.

Dear Parents:

I have just received your letter of June 30th and learn with great sorrow that Donat had to move to the front and that he is already 3 months incorporated in the field forces. Glad, however, to know that he received a furlough if only for 14 days, and hope if he has to go again he will return safely. Learn with regret that Osterhammer, Joseph and Seiser, Peter have fallen. How did Peter get in the hospital? As a wounded or otherwise sick?

I am astonished that you did not get any of my letters I have written you often. Naturally my letters are not eventless and contents may not suit.

It is shuddering if one takes into consideration the many human lives which this war has already claimed and yet will claim, but there is no turning back for Germany, for as a nation she would be gone if this war were lost. People here learn with admiration how the German people to the last man have collected around the flag and sacrificed the

last drop of blood for the salvation of German honor and the German nation. A people like the German is not to be found in the whole world, and if one reads of the English labor strikes and the like, it fills one with disgust, tho it be to the advantage of Germany; but one can see of what caliber the English are made. Apparently their own soldiers and statesmen turn traitors for a few shillings. It is hard to think that millions of young people, fathers of families and too old men are falling victims of this frightful war, but as said before, now there is no room for consideration nor retreat. Forward and forward is the battle cry until the last hostile flag covers the dust. The stand of our administration regarding the German course is, mildly said, regrettable. There is no more neutrality or impartiality for the second American note to the German government shows without doubt that the American government wishes to paralyze the submarine warfare so as to play in this way into the hands of Germany's enemies. How such a thing, considering the American war of independence with the same suppressor, England, is possible, is inconceivable and it seems that American gratitude is of short duration. How long this horrible war will last yet is perhaps better known to you than to us, and it will be only a question of who can sacrifice most people and mold most bullets. Perhaps with

the taking of Warsaw a sudden change may take place, and war may be ended over night if Russia sues for peace. But this is only to be wished. France will perhaps stay in longest with England, but once Russia is defeated, it may come to its senses, which of course would end the war faster. And now, dear parents, I hope that this will reach you and that all will come out all right.

How many have so far fallen from Bernau? There must be now many prisoners in the Bag Experimental station. From what side are they, Russian, French or English?

Hoping to hear from you soon, I am as ever,

Your grateful son.

Hearty greetings to Donat, if he is still at home, and his family, Kaspar and his family, as well as the acquaintances."

On November the 26th, 1915, defendant, Joseph Woerndle, wrote a letter in German to Kaspar Woerndl as follows:

"Nov. 26, 1915.

Mr. Kaspar Wörndl,
Bernau a/Chimsee,
Oberbayern, Bayern, Germany.

My dear Father:

I received your letter of September 15th rather delayed, and read your lines with interest. I regret very much to know that Donat is still at the front,

but hope he will return again healthy and happy to his family. I was rather astonished regarding the delay in the payment of your allowance, but this is perhaps due to postal interruption. I will see that in the future no such interruptions will occur. I can well imagine how everything goes with you, with the head of the family still at the front, and with the many children and Donat's sick wife. I have written her yesterday, which letter probably has arrived by now.

It is immensely sad to think of the misery which has come over poor Germany and other countries, with an end not yet in sight. Naturally here one has only an opportunity to get everything colored, and perhaps it looks darker here than in Germany, even in case of a victorious ending for the German flags. Since you have served two years in the war against France in 1870, you have perhaps a better idea as to what the ending of this war may be. Do you believe that Germany's finances and manpower will last long enough to insure victory? We hope and pray to God that Victory be to the German colors and that an early peace may be made. No doubt the French prisoners in your hands are faring better than your prisoners in France (and) or England, for the German heart is not so revengeful and cruel as the Frenchman's and I pity the fate of those Germans who have fallen in the enemy's

hands. The letter of my sister-in-law was so touching, and I hope that the prayer of the little ones will be heard. I hope, dear Father, that in spite of your 70 years you will live to see the end of the war and the return of Donat as well as a reunion of us all. Take good care of yourself so that you will always stay well. I will see that with God's help my allowance will punctually come into your hands for the payment of possible help on the place.

Enclosed find my check for Mk 50 for Christmas presents, which I ask you to distribute among the others as last year. I am sorry I cannot make it more, but conditions here are not the best, but hope that later everything will come out all right.

Let me also know if the German Bank makes any deduction from the monthly Mk 60. The bank charges my account with postage, which is small, but I was just wondering if they pay you the whole sum in full every month.

Hoping that this will reach you, Mother, Sister-in-law and children, Kaspar and children, in best of health and sending my heartiest greetings to you all, I am

Your loving grateful son."

On November the 26th, 1915, defendant, Joseph Woerndle, wrote a letter in German to Kaspar Woerndl, Jr., as follows:

"Nov. 26, 1915.

Mr. Kaspar Woerndl, Jr.,
Bernau a/Chimsee,
Oberbayern, Bayern,
Germany.

Dear Brother Kaspar:

I received your letter of July 7th much delayed, but could not by reason of other things answer it right away. Your very explicit letter is welcomed because others were very short. Father with his shaking hand finds it more difficult to write than you. Yes, it is sad to think that Donat with his big family at home has to suffer all possible hardships in the enemy's land. But I hope that with God's help he will again return. In the meantime you will have to help all you can to keep everything agoing. How are you and your family and little Godchild getting along? Would be glad to see you all but this cannot well happen now. Times here are not the best and the our administration tries to avert a crash with ammunition trade, nothing, it seems is going ahead. There is no blessing in things of this kind, and the thought that this country has to enrich itself on thus acquired blood-money is not less horrible, but retribution will here also be in its wake, and the proverb, "As won so lost," will also here hold good.

Regarding my piece of land would say that both of you can use it. Only agree with one another. If Donat got the hay last year, you can plant it with vegetables this year. It matters nothing to me and as long as Donat is away, it should not be difficult for you to use it. But, Kaspar, always remember that you have a salary, whereas Donat has to get everything from the farm. Do for one another what is possible, and I will try all I can to help along. I shall have the deed which you sent me acknowledged before a consul and will then send it to you. But, dear Brother, I am doing this so you have it on hand in case something should happen to me, which no one knows, but only in case of my death I want you to inherit this land. As long as I live myself I may need it perhaps to build a house on it and to live in it if the Germans once should be chased out of here. Would not be regretted much for this country has in past times acted disgustingly against Germany and the German race. One cannot have much respect left. How is everything otherwise out there. How many and who has fallen of the old comrades I used to know? Where is Donat? In Servia or Russia? Send me letters once in a while which he has written to you and in which he described conditions. He has never written to me personally, perhaps cannot for reasons. What do you think

of the future and the ending of the war? Write me again much and soon.

Sending hearty greetings to you, your wife, family and little Godchild, as well as to Father, Mother, Donat, wife and children, I am

Your true devoted Brother."

On December the 10th, 1915, defendant Joseph Woerndle, wrote a letter in German to Kaspar Woerndl, Jr., as follows:

"Dec. 10, 1915.

Mr. Kaspar Wöerndl, Jr.,
Bernau a/Chinsee,
Oberbayern, Bayern, Germany.

My dear Brother:

Enclosed I send you power of attorney regarding transfer to you of property belonging to me in Irschen, so that in case of my death you will have no trouble to get the property. In the meantime you and Donat can use it as you like.

I learn with great satisfaction from Father that Donat is yet alive and well in spite of the hardships of the war, and as it now looks, Germany has 3 Aces and England 1, with other Trump cards in Germany's hands. I expect eagerly every day the news edition, thinking that every hour may bring armistice and negotiations of peace, and yet that time is yet somewhat off. Victory for Germany too means much for us, for you have no idea how

much the German population and business world under present circumstances has to suffer, for the end of the war and a German victory means the resurrection of German influence in the whole world and would without doubt help us here too immensely. It is only to be regretted that so many human lives are sacrificed to accomplish this and nobody here has thought that, after even unfaithful Italy has joined in the English, French, Russian, Belgian, Servian, Montenegrin and Japanese (and many others) alliance. It is almost unbelievable and sounds like a fairytale, hard to believe, and only God's help, faith, German unity, belief, hope and denials have made it possible to achieve victory over the whole world. Here we did our best with money, agitations, etc., etc., but with an administration as we have it, not much can be accomplished. Only last week we held a Red Cross bazaar, and netted over \$3000, and thruout the whole United States people are busy working so that as much as possible can be done for the old Fatherland. I hope that the war will soon come to an end so that everything will again liven up and begin anew.

Sending to you, wife, children, Father, Mother, Sister-in-law and children my hearty greetings, I am, most respectfully,

Your true brother."

On January 20th, 1916, defendant, Joseph Worendle, wrote a letter in German to Kaspar Woerndl, Jr., as follows:

“January 20, 1916.

Mr. Kaspar Wöerndl, Jr.,

Bernau a/Chimsee,

Bayern, Germany.

My dear Brother:

I received your dear letter of November 22d, and observe that everything is going ahead tolerably. I also received a letter from my sister-in-law, Donat's wife, and I am immensely sorry to read of her plight between the lines. It must be horrible to know that he is now in the bloodiest angle of the whole war, where, as I consider it, it is almost a miracle to return alive; but of course nothing can be done to change it. We are trying with all our strength to persuade our administration to stop the criminal trade in arms with England and France, but have no prospects of success. But hope it don't benefit the others because German submarines are sinking most of the ships.

Regarding the building of a house on my property in Irschen, I wish to say that until the war is over there are no hopes, for times here are bad and everything uncertain. In your place I would not ask to be removed to Munich at this time, for Father has now nobody at home. The building

question is not a question of doing it, but a question of being able to do and under present circumstances, it is simply impossible. I would certainly like to see you helped in this regard, but for the present it is impossible to do.

I would like to get a photo from Donat in field uniform if one of them is obtainable. But I cannot write to him because my letters will not reach him and for that reason I would ask you to inform him of my wish and to send him my greetings, also my wish regarding photo.

Greeting you, little Godchild, wife and children, as well as Donat, wife and children, Father and Mother heartily, I am, as ever, with brotherly greeting

Your true brother."

On the 18th day of February, 1916, defendant, Joseph Woerndle, wrote a letter in German to his father and mother as follows:

"February 18, 1916.

Dear Father and Mother:

I have just received your dear letter and also that of dear sister-in-law, and notice with great sorrow that you were visited with so much sickness this year. It seems I would not care to live anymore if you were taken from us. Father, pray that you remain well so that I may see you once

more, only once, just once more. God will not take you from us, Father, so don't lose courage, and pray for me that I may stay well, in order to work so that I may give you comfort at least financially until this unhappy war is over. Take good care of yourself, Father, and too of Mother, for she too I want to see once more in this life, and also request of Mother that she pray for me, so I may get along well and be able to do for you much, much, very much yet. Everytime I take something in my hand which was given to me as a souvenir, I think of her. Tell her to take good care of herself so we can all see another once more. I have instructed the German Bank to pay you beginning with April \$100 per month until the war is over, and of this money I wish for you to keep Mk 50, to give Mk to sister-in-law, and give Mk 20 to Kasper every month. Poor Kasper writes that he was sick and I feel very sorry that everything seems to go wrong, but hope with God's grace that everything will be better again. Never refuse the poor or hungry a piece of bread and God the Almighty will never forget us, even tho sometimes things don't look the best. The war will and cannot last long anymore because this butchery is frightful. It paralyzes my hand if I just think about it. Father, if it was necessary I

would come out to help you at home and to take care of you until the war is over, for here things may get along without me, but if I can do more for you here, I had better stay here. Father, you have cared for us when we were small and helpless, you have worked day and night when we needed you, and now my dear Father I am ready to give my all to make the evening of your life as pleasant as possible. I am awfully sorry for Mother because she had to suffer so much, but God will spare us for her another joyful meeting. And this prayer goes heavenwards every day, with the prayer that nothing may happen to Donat and that he will again return happily.

Business here is very bad and I am working almost day and night to keep above water, but I never lack optimism, and as long as a person has that, things go all right. Maybe we will make something in our mines this year and we have decided to get them in operation in the near future, since the price of asbestos has gone up.

And now, dear Father, I shall close for this time, and in the hope that this will find you, Mother, sister-in-law and children and Kaspar and family in best of health, and that the horrible war will soon come to an end, I remain as ever

Your grateful son."

On the 18th of February, 1916, defendant, Joseph

Woerndle, wrote a letter in German to Mrs. Donatus Woerndl, as follows:

"Feb. 18, 1916.

Mrs. Donatus Woerndl,

Irschen, Post Bernau,

Oberbayern, Germany.

Dear Sister-in-law:

I have just received your letter and also the letter of Father and learn to my great sorrow that you have all been visited with sickness. It pains me intensely that in spite of all the other misery, you weren't spared of this visitation but trust to the divine providence of our Lord and He will make everything right again. He never forgets us if we do not lost faith in Him. I rejoice that much more since good Mother and dear Father are again on their way to recovery, and I hope and pray that when the next harvest comes this unfortunate sad war will be over. Although everything looks yet dark as the night, God will soon send us a ray of light, and the misery which poor Germany and its poor people withstood so faithfully and steadfastly will be turned into joy. Kasper too writes he was sick and I cannot illustrate the profound sorrow I feel for you. I have instructed the bank to send you beginning April Mk 100 instead of Mk 60 every

month and until this unhappy war is over and I have God's grace to send it. I would be glad to go over and help you at home if you think that I can do more for you in that way, but that is doubtful. Here times are miserable, at least out West. In the East things go somewhat better because the people have more work (perhaps in the ammunition factories). A shudder overcomes a person when one thinks that for filthy money millions of dollars worth of shrapnels are manufactured to slaughter thousands of young human lives. But all protestation appears to be fruitless. What visitations God Almighty reserves for us remains to be awaited, but we as Americans can surely expect no blessing for it. I hope and pray that Donat will return home well. We have decided to reopen our asbestos mines in Eastern Oregon in which I own a little less than one-third interest, in a few weeks, and I wish for you to pray that we are successful. We own in all something over 120 acres, or an acre of 600 feet wide and 6000 feet long. Alongside we hold a purchase option for 25 acres more rich asbestos land. The price of asbestos has gone up since the outbreak of the war, and I think the operation now can be made to pay. We also have acquired about \$2500 new machinery and I think we can compete against Canadian mar-

kets and competition. Asbestos is found only in Canada, Russia and only three places in the United States, of which ours is one. I am the President of the Mining Co., but do not concern myself with the mines themselves. The offices however are next to ours and under my direction. Debts we have none on the property neither on the ground nor machinery, but everything depends if we can sell the products at a price so as to make a profit, and this time I believe is at hand. After the war I shall send samples to Germany and perhaps supply the German needs and in this connection would make a trip to Germany. Will also send you samples later on.

And now, dear sister-in-law, I must close for this time, and altho it is already 9:30 P. M., I have yet to write a few letters. My private correspondence I attend to evenings myself.

Hoping and praying that my dear brother will again return home well, that father and mother will soon recover their health, that this will reach you all in best of health, and that this unhappy war will soon come to an end, I remain as ever

Your sincere brother-in-law."

On May the 8th, 1916, defendant, Joseph Woerndle, wrote a letter in German to Mr. Donatus Woerndl, as follows:

“May 8, 16.

Mr. Donatus Wörndl,

1 Bav. Reserve Army Div.

1 Bav. Reserve Dis. Regiment No. 12.

My dear Brother:

I wrote to you often since you were inducted into the army, but it seems that my letters do not reach you, but I shall try once more to get this to you.

One's blood stagnates, reading of the horrors of the war, and I cannot understand how the Almighty God allows that so many human lives daily, yes hourly, are permitted to be butchered. I pray every day at every opportunity that this terrible and unhappy war would cease, but as it seems in vain. We here in spite of all reports cannot have an idea of the misery which now exists in Europe. Neither have I ever received any word from you, if you have ever written, and I am very much worried that nothing will happen to you. I cannot escape a shudder when I ponder over the situation, and yet it seems that fate wills it so. I cannot understand that the stupid French cannot see that they are in vain sacrificing their sons to salvage damned England's chestnuts from the fire. And that our country too should offer herself for cursed gold to furnish tools of murder to blow hundreds of thousands of human lives out of ex-

istence. We protest, telegraph, argue, and do all we can, but all our efforts seem to have no effect upon the Administration in Washington. And an end not yet in sight. Our can never repair for the curse of his deeds, for it seems as if he has sold his soul and body to the devil and his ally England, and it looks as tho he were lending every effort to throw our country into this war. But woe the shores and this flag if it comes that far. Here too there will not remain one stone upon the other if this comes to pass, for the bloodbath which he here prepares will outtop in blackness any shadow which the angel of death has ever thrown on Europe. This monster of a president seems not to notice the bloody handwriting on the wall, but it will be that much more red when the hour comes, and he should persist to throw this country into the mouth of inhumanity and war. I hope it will not come that far and that the good own common sense of the American people will not leave them at this hour. Dear Brother, write to me how everything looks and how you are, for I would be glad to hear from you. I have raised your allowance to Mk 100 per month to the conclusion of war, and I hope that it will get to you promptly. I feel very sorry for your wife and your small children as well as Kaspar and children and for Father, in fact all concerned and hope that this butchery will soon

come to an end. The whole world admires the Emperor, for he is perhaps the greatest man that ever lived, the ablest soldier, diplomat and ruler, and I hope he will succeed to lift the world back upon its axle. If he can't do it, nobody else can.

And now, dear Brother, remain true to your flag and your fatherland, do not lose courage and God will never leave you. I will do everything in my power to help at home and otherwise.

GOD WILL NOT DESERT THE GERMANS

Pray for me so I may remain well and be able to help you, and I am willing to sacrifice everything to contribute my mite in this dreariest time and hour in order to alleviate the misery of the unfortunate and suffering. And now, my dear Brother, I shall have to close for this time. It is already past 11 o'clock and I have several letters to write yet. I have sent my family to the beach a week ago because my two youngest boys had the whooping cough and nothing would help, and hence the Doctor advised change of climate. We are only about 118 miles from the coast and I can get there every Sunday by fast train. The trip takes 5 hours, but I can spend the day with them.

With hearty greetings to you and your comrades, and hoping to hear from you soon, I remain as ever

Your loving brother.

P. S. Your wife sent me a soldier's photo of you, which I heartily enjoy."

On July 14th, 1916, defendant, Joseph Woerndle, wrote a letter to Mr. H. W. Boehme, as follows:

"July 14.

Mr. H. W. Boehme,
Kurfuerstendamm, 100,
Berlin-Halusee,
Germany.

My dear Mr. Boehme:

I have received two of your letters and I have answered both of them previously, but it seems that neither of my letters came into your hands, however, both of my previous letters did not touch upon your business affairs very much, as I had no chance to get up a complete report which I now submit. I have had a talk with the Ladd & Tilton Bank in reference to your note and have found that no part of the principal of \$500 has been paid off, although the interest have always been promptly made. I have also called at the offices of the Northwest Importing Company and have had a talk with Mr. Bult several times. The Northwest Importing Company is still in existence but like a great many other concerns has just about kept above water, without counting, however, running expenses as far as the salary of

Mr. Bult concerns. Mr. Bult was very nice in showing me over the whole premises and the books. From said books, I find that on the first day of January, 1915, the business was charged with the following:

Assets:

| | |
|---------------------------|----------|
| Ladd & Tilton Bank..... | \$500.00 |
| Printing Bill | 35.00 |
| Portland Brewery | 25.00 |
| McCondrey Bros. Teas..... | 36.40 |
| Livery | 56.00 |
| Fletcher, Teas | 10.00 |
| Casswell, oils | 55.00 |
| Burnett, Cash | 40.00 |
| Paste Co. | 20.00 |

Total\$777.40

The outstanding credits amounted to \$700.00, plus fixtures and some stock. Against this is also charged your note of \$735.00 and owing Mr. Bult for salary balances \$125.

On January 1, 1916, the debits show:

| | |
|-----------------------------|----------|
| Ladd & Tilton Bank..... | \$500.00 |
| Neisson Company, oils | 199.10 |
| Printing | 10.00 |
| Portland Brewery | 25.00 |
| McCondrey Company | 90.00 |

| | |
|---------------|----------|
| Livery | 67.00 |
| Caswell | 55.00 |
| | <hr/> |
| Total | \$824.10 |

Plus note H. W. Boehme, \$735, account Bult, back salary balances \$180.00. Outstanding credits credited against this \$739.00.

On the 14th day of July, the date of this writing, I find the following charges:

| | |
|-----------------------------|----------|
| Ladd & Tilton Bank..... | \$500.00 |
| Niesson & Co. | 119.10 |
| Portland Brewery | 25.00 |
| George Harvey, Loan Broker, | |
| 3% P. M. | 100.00 |
| | <hr/> |

Total\$824.10

The outstanding accounts amount to \$807.00. Besides this is your note of \$735.00 and accumulated salary balances of Bult in the sum of \$330.00.

The net profits for 1916 are as follows:

| | |
|----------------|---------|
| January | \$96.25 |
| February | 55.19 |
| March | 91.16 |
| April | 109.00 |
| May | 96.25 |
| June | 61.85 |

The above, however, are not embracing Mr. Bult's salary; hence, every month except April

shows a loss. Mr. Bult now pays all cash and owed nothing for coffee. The rent has been reduced to \$30.00. This gives you a clear idea as to the conduct of the business. There has been paid in by Alma Raleigh, the sum of \$60.00, which is held subject to your orders and here on deposit. Incidentally I may say I have received in your first letter a check for \$10.00, Attorneys fees. This is the sum I have heretofore acknowledged, but perhaps you have not received my letter.

In reference to your lots I would say that the bank still holds title to the same as to the equity on the acreage in Lents. I have taken up the matter with Mr. Bult, but as he was not in a position to get me the deed, I have withheld the same and now still withhold the contract. I am afraid however, that since no payments have been made on the contract, same has ceased to exist as an asset. I am of the belief, however, that one can get title again by paying up back installments. Your other goods I am having in my safe-keeping as before. So much for the business end of this communication.

Your last letter I have received from Salt Lake City, was written on an Underwood Typewriter. Strange isn't it. I have too, sometimes wondered at the report that you was within the boundaries of our state, but I am inclined to believe that you

would have called, had you been here. But never mind, when this horrible butchery in Europe is over, you may be able to tell me all about it. Just yesterday we received the news that the German submarine "Deutschland" has arrived in New York. You can imagine the joy among the "hyphenated", although the news from the front are somewhat discouraging of late. However, I hope with the prayers of the millions within the confines of this beautiful country, the victory will go where it belongs and the poker chip stake of the proud Albion will twindle down, with the aces of the deck all in Wilhelm's hands. Even the most faint-hearted have a ray of hope, with the first days of the far and long heralded offensive of the allies simmering down in significance no matter what friend or foe may think of German militarism and the Kaiser's "Me and Gott". No human being has ever guided the destinies of that country, like Wilhelm. It is a struggle long and hard but with the faith, confidence, loyalty and endurance, the outcome of the struggle is not in doubt. We are here doing our best. We are filing scores of protests against the unneutral (seemingly at least) acts of our Government, and in a small degree, I suppose they have had a bearing upon the relations had in the past with the country across the water, second dearly loved by us all. However,

we have not achieved that which from a Christian humanitarian and civilized standpoint, we considered expedient and proper. We have been compelled to see German dollars, intrusted to our banking institutions, swell the war loans granted by J. P. Morgan and his crows, unable to help ourselves or to stop the banks from so doing, and the present predicament shows us how important it is for the German speaking people of this country and their descendants to rally to the banner of true Americanism, i. e., to guard our interests, first, last and always as American citizens only, and not to foster English enterprises and bolster up their half bankrupt country. I am somewhat sorry to notice that the allies have again gained an inroad into the German lines of defense, but hope that these gains are only temporary and that they will exhaust themselves before they will reach their goal. I would be pleased to receive from you news as to conditions existing at present in the dear old Fatherland.

Do you in your travels ever get near Rosenheim, Bavaria? My folks live at Bernau am Chiemsee. They would be glad, I am sure, if you could say "Hello" for me. If there is anything I can do for you in any shape, let me know. Often wished I could go home and do my share, to help carry the burden, but I presume I can be of greater use

right where I am.

Hoping to hear from you soon and submitting my kind wishes, I am, believe me, as ever,

Sincerely your Friend.

W/B"

On September 15, 1917, defendant, Joseph Woernle, wrote a letter in German to his father, as follows:

"September 15, 1917.

Mr. Kaspar Wörndl,

Bernau a/Chimsee, Oberbayern, Bayern.

My dear Father:

At last I have succeeded to discover an address to have a few lines reach you. I have not heard from you for over one year and the uncertainty regarding yourselves drives me nearly crazy. The enclosed letter was the last one I wrote, but like another one written prior came back to me. We are already since last March, tho indirectly, in this butchery, and no end is in sight yet. I hoped in vain that the peace proposal of the Holy Father would bring the long sought peace, and yet the whole human race prays for an end of this butchery. How long it will last yet only God knows. About the terrible suffering at home and otherwards in Europe we have probably no idea, but what may come here only providence holds in hands. A week before the outbreak of the war I

have sent you thru the Transatlantic Trust Co. in New York \$250 or about Mk 1200, but do not know to this day if you have received it. I paid for telegraphic remittance, but no return report ever came. How are you and are my brothers yet alive? The thought about them and their children and wives nearly takes my senses. How is your health? I hope and pray to God every day that he may spare you for us. If this unfortunate war is once over and I have the means, I hope to come out to you for a visit. Who and how many of my old comrades and acquaintances have already fallen? Are there yet any people left? Write to me, dear Father, and address the outer envelope either to "German Aid Society, Stockholm, Sweden," or to "American Red Cross, Stockholm, Sweden." The inner envelope which contains my letter must have my address on the outside.

Otherwise I am getting along fairly well. Business is on the dogs entirely and how everything will end I have no idea. If you write to me, dear Father, do not forget to paste an international postage stamp on the envelope addressed to me. And, dear Father, write without delay. Hoping that this letter will find you all alive and well, and with kind regards to you all, I am

Your ever grateful son."

That some time after January 3d, 1916, and prior to

July 14th, 1916, Joseph Woerndle received the following letter:

"Lillie, France, Jan. 3, 16.

My dear Woerndle,

I wonder, if you ever have received any of the letters, I have written to you from various places. I have my doubts about it, as our dear friends, the English, particularly late, rifle even the neutral mail bags rather thoroughly. I have an opportunity of sending these lines through a private party to the dear old U. S. and hope, that they will get safely into your hands. No message from you ever reached me and I believe, anything you may have written, rests safely at the bottom of the ocean.

Is the Northwest Importing Co. still in existence? When I left the Co. owed Ladd & Tilton \$400.00, for which this bank was holding as security, my deed to 4 lots in Portland; according to the agreement the loan should have been paid back long before this—I wonder, if this has been done? The deed should have been returned to you by Bult. If it has not been turned over to you, will you be kind enough, to take the matter up with Bult. The N. W. Imp. Co. further owes me personally \$735.00, for which amount a note should be in your hands. This note I had, at my departure from Portland, given to friend Klein

of the Hoffbrau as a security for a certain loan. The latter has been paid back by me about a year ago and my cancelled check to Klein is in my possession. Klein was requested, to turn the note over to you. The N. W. Imp. Co. should have begun long ago, to pay at least \$25.00 per month on this note. Will you look after that too? So much for the business—

As to me personally I got through so far with a whole skin, and am feeling splendid. I am captain, detailed to the General Staff and "Ritter des eisernen Kreuzes". My wife and children are very well, the little fellows speak German fluently, and Madam is still overwhelmed by the greatness, the enormous strength, the silent unconquerable power of Germany. As to the end of the war, nobody can predict, when that will be; as to the outcome, there is no doubt; WE HAVE WON! Our armies are standing, an unbreakable wall of iron, in the enemies' countries, we have everything we need, now or in the future, Serbia is completely eliminated, so will Montenegro be, the Allies at Gallipoli are no longer to be reckoned with, Albania will be taken, the English and French will be thrown out of Saloniki, and even if we should return every foot of conquered territory in the East and West (remember: we are not carrying on a war of conquest but a defensive war, into which

we have been forced!) our victory will be great and far reaching, for the ring of our enemies has been broken forever, we are standing hand in hand with our friends and the road to the Persian Gulf is open, a fact, which will be of the greatest consequences! The German total losses are smaller than the French losses alone, of our wounded 92% return to the front. In the battle of the Champagne the French lost 250000 men, the English at Loos 60000 and we—between 35 and 40000 men!

The English—and they know it themselves!—are in the position of a business man, who has ventured the bulk of his fortune in a great enterprise, which turns out to be a losing proposition, and who is now compelled, to throw the remainder of his fortune into the gap, in the vain and hopeless attempt, to turn the tide in his favor. It is too late! they are beaten, but, of course, they cannot admit it as long as there is still a hope of getting some new fool to get the chestnuts out of the fire, and—the English always have been willing to fight to the last Frenchman!

It is really almost pathetic, to see, to what means they have to resort, to keep up appearances for at least some time to come; no means are too low, no lies too brazen! Since the Belgian and other atrocities do not work any more, I should not be surprised, if they would try, to tell the

American people, that Germany will, after this war is over, tackle the U. S.! Anything, to poison the mind of the Americans! We know, of course, that the big papers, owned or in the pay of the English, do not represent the actual sentiment of the people in the U. S., though we realize, that there are also many people, who would be immensely pleased, if an American citizen could be placed on each English ship, to save the English navy from our submarines. One could be surprised, why certain people have not hit upon the idea of placing, board and room free, some American citizens in each trench of the Allies and telling us, "Don't you dare, to shoot this way, here are Americans"! Just imagine, in what fix this would put us Huns and Barbarians! Why, in the name of all common sense anyway, do we object to being blessed with Kossaks, Senegalniggers and colored Englishmen's civilization!!

Well, duty calls! Sincerest regards to all, who remember me.

Faithfully yours,

H. W. B.

Berlin-Hallensee

Kurfuerstendamm, 100,3.

LESTER W. HUMPHREYS,
Solicitor for Plaintiff.

C. T. HAAS,
Solicitor for Defendant.

AND AFTERWARDS, on the 17th day of April, 1922, Hon. Robert S. Bean filed in said court and cause his opinion as follows:

OPINION

BY BEAN, D. J.:

This is a suit brought under Section 15 of the Act of June 29, 1906, 34 Stats., 596, to set aside and cancel a certificate of naturalization issued to defendant by the Superior Court of the State of Washington for Pacific County in August, 1904, on the ground that such certificate was procured by fraud in that the defendant, a native of Germany, falsely and fraudulently swore that he absolutely renounced and abjured all allegiance and fidelity to every foreign prince, potentate and sovereignty, and particularly to the Emperor of Germany of which he was a subject, when in truth and fact he fraudulently reserved and kept in whole or in part his allegiance and fidelity to the Imperial German Government. The material allegations of the complaint are denied by the defendant.

The question at issue is defendant's attitude of mind in 1904 and whether he obtained his certificate of naturalization illegally by false and fraudulent representations as to his true allegiance. In determining that question reference may be had to evidence showing his attitude of mind and heart subsequent to his naturalization (U. S. vs. Wursterbarth, 249 Fed.

908; U. S. vs. Darmer, 249 Fed. 989; Schurman vs. U. S., 264 Fed. 917; U. S. vs. Kramer, 262 Fed. 395; U. S. vs. Herberger, 272 Fed. 278); but, as said by Judge Hunt in Schurman vs. United States, 264 Fed. 919:

“Courts should be very careful to avoid depriving one of citizenship upon evidence which, while proving lack of allegiance at the time of the investigation, may not by relation establish that there was lack of true faith and allegiance at the time of the issuance of the certificate to the applicant.”

The defendant was born in Bavaria in 1880. When seventeen years of age he obtained from his native country a certificate of complete expatriation and came to the United States with the intention of making it his home. He has since continuously resided here and so far as the evidence discloses has, with one exception hereafter noted, been an industrious, upright and law-abiding citizen.

A short time after his arrival he filed his declaration of intention to become a citizen and on August 23, 1904, made the necessary proof and was regularly admitted and took the oath of allegiance. About a year later he married a woman born in the United States and has three children. Neither his wife or children understand or speak the German language.

There is no evidence of any conduct, acts or declara-

tion of the defendant prior to the commencement of the war between Germany and England which in any way tends to support the allegations of the complaint. But it is contended by the Government that defendant's attitude during the latter part of 1914 and the years 1915 and 1916 was such as to show by relation that he swore falsely in 1904 when he declared that he absolutely and forever renounced all allegiance and fidelity to the German Government.

The evidence relied upon to sustain this position consists of information obtained from private memoranda of defendant and copies of private letters written by him to his relatives in Germany, which were obtained by an unlawful search of his home and office by officers of the Government in violation of the Fourth and Fifth Amendments to the Constitution of the United States, and which documents on his application were by the court ordered returned to him, without objection by the Government. The evidence so obtained would not be admissible on a criminal trial (*Silverthorne Lbr. Co. Inc. et al. vs. U. S.*, 251 U. S. 385; *Gouled vs. U. S.*, 255 U. S. 298; *Amos vs. U. S.*, 255 U. S. 313), and I am in doubt whether the Government should be permitted to profit in this proceeding by the knowledge so obtained.

But, however that may be, it is not sufficient in my judgment to show that the defendant did not, in 1904, honestly and in good faith renounce and abjure alle-

giance and fidelity to Germany. It all relates to his acts and statements in private letters and memoranda after the commencement of the war between Germany and England and several months prior to the time the United States became involved therein. It should be interpreted in the light of this fact and not that of subsequent events. There is no evidence of a single act, statement, or conduct indicating allegiance to or sympathy with Germany after the entry of the United States into the war, but all the evidence is to the contrary. I have not been referred to a case in which a certificate of naturalization has been cancelled and set aside upon such proof, nor have I been able to find one.

In obtaining a passport in his name for use by Boehme and in allowing Boehme to use such passport and to assume and travel under his, defendant's name in order that he might pass the Allied lines and return to Germany and join the German forces, defendant's conduct is, of course, indefensible; but there is no evidence that he knew the passport was to be used, or was, in fact, used for any other purpose, and his action in reference thereto is not sufficient to show a fraudulent reservation of fidelity to Germany at the time of his admission to citizenship ten years before.

The same may be said of the statements of his private letters to members of his family in Germany criticizing the policy of the United States, expressing love

for his native country and a desire for her success. They were all made some months before the United States was at war and at a time when his native country was being hard pressed by her enemies. It is common knowledge that during that time many naturalized citizens born in one or the other of the belligerent countries were in sympathy with the land of their birth and anxious for her success, and not only publicly so expressed themselves, but in other substantial ways aided and assisted her, without their loyalty to their adopted country being then or thereafter called in question.

It follows that the complaint should be dismissed and it is so ordered.

AND AFTERWARDS, to-wit, on the 17th day of April, 1922, a decree was duly entered in said court and cause as follows:

DECREE

This cause was tried by the court upon the pleadings and the proofs, plaintiff appearing by Mr. Lester W. Humphreys, United States Attorney, and defendant in his own proper person and by Mr. C. T. Haas, of counsel. Upon consideration whereof

IT IS ORDERED, ADJUDGED AND DECREED that the bill of complaint herein be and the same is hereby dismissed.

(Sgd.) R. S. BEAN,
Judge.

AND AFTERWARDS, to-wit, on the 23rd day of September, 1922, a statement of the evidence in said cause was duly approved by the court and filed in the office of the clerk of said court as follows:

STATEMENT OF EVIDENCE

The evidence given at the trial of this cause was as follows:

Defendant, Joseph Woerndle, was born at Bernau, Bavaria, Germany, August 3, 1880, of German parents; said defendant emigrated to the United States, sailing from Bremen, Germany, in July, 1897. The said defendant, Joseph Woerndle, at the time of his hearing in open court on his application for naturalization on the 23rd day of August, 1904, in the Superior Court of the State of Washington, for Pacific County, and as a part of defendant's naturalization proceedings, declared on oath before the said Superior Court of the State of Washington for Pacific County that he absolutely and entirely renounced and abjured all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Emperor of Germany of whom he was a citizen or subject and then and there took oath in the prescribed form, that he would support the Constitution of the United States of America.

In October, 1914, one Hans W. Boehm was subject to call in the German army; that from February,

1914, until the 6th of October, 1914, the said Hans W. Boehm resided at Portland, Oregon; that in October, 1914, and particularly from October 1st to October 6th, 1914, the defendant, Joseph Woerndle, was personally acquainted with said Hans W. Boehm and that said defendant then and there knew that said Hans W. Boehm was a citizen and subject of Germany and subject to military service of Germany, and that said Hans W. Boehm was then and there desirous of departing from the United States and returning to Germany to enter the military service of Germany.

Prior to the 3rd day of October, 1914, Boehm discussed with Woerndle, Boehm's desire to return to Germany and join the colors.

On the 3rd day of October, 1914, by agreement between Hans W. Boehm and defendant Joseph Woerndle, an application for a passport for Joseph Woerndle was executed, thereafter the name "Joseph Woerndle" was signed to the said application by the said Hans W. Boehm and the passport being intended for the use of Hans W. Boehm. Whereupon Hans W. Boehm with the knowledge and consent of the defendant, Joseph Woerndle, transmitted the said applicaiton for passport to the Secretary of State of the United States of America, with directions that the passport be sent addressed "Joseph Woerndle, c/o Waldorf-Astoria Hotel, New York City." Defendant, Joseph Woerndle, then and there delivered to said Hans W. Boehm a certified

copy of the certificate of citizenship of defendant Joseph Woerndle, and an original patent for land in California to be used by the said Boehm in identifying himself as Joseph Woerndle.

On the second and third of October, 1914, the defendant, Joseph Woerndle, made the following entry in a diary on page 109 thereof:

“Had a grand dinner with Paul Wessinger
* * * and H. W. Boehm. * * * Boehm says
he intends to return to Germany and join the col-
leues, and wants to give me power of atty and
make will.

“Boehm gave me power of atty. and drew will.
I will furnish him with pass—& U. S. citizen pa-
pers so he can travel in my name. Also gave him
my California land patents for identification. In-
structed Secretary of State to forward pass when
made out to my address c/o Waldorf-Astoria,
New York, where Boehm will call for it. Out
with Paul Wessinger. Wessinger signed my ap-
plication for pass as witness, saying he knew me
8 years.”

On the 6th day of October, 1914, Hans W. Boehm left Portland, Oregon, went to the Waldorf-Astoria Hotel at New York City, there asked for and received the passport issued to Joseph Woerndle on the afore-
said application of October 3, 1914, and the said Hans

W. Boehm thereafter used the name and passport of Joseph Woerndle, traveled to Europe and thence forward, was active in the German military service while pretending to be Joseph Woerndle, an American citizen.

In February, 1915, Boehm applied for a further passport, using the name Joseph D. Woerndle and the photograph of Boehm. He also signed as attesting witness the name of Joseph D. Woerndle to an application for passport, for one Anthony J. Brogan, all of which, however, was done without the actual knowledge of the defendant Woerndle.

In January, 1917, Boehm was traveling under the name of Jelks Leroy Thrasher, with a fraudulent American passport, also without the actual knowledge of the defendant Woerndle. At that time he was arrested by British authorities at Falmouth, England. The fact of Boehm's arrest and the fraudulent nature of his passport was reported to the State Department of the United States Government by the American Ambassador at London. On the first of February, 1917, the news of Boehm's arrest was published in the Portland "Oregonian" as follows:

"PASSPORT CASE PROBED

EXTRADITION OF CAPT. BOEHM IS CON- SIDERED

All Persons Connected with Issuance of Papers

to German to be Called to Account
by Washington.

Washington, Jan. 31.—State Department authorities today began a thorough investigation into the issuance and alleged improper use of American passport in the name of Jelks Leroy Thrasher, with which Capt. Hans Boehm, said to be a German Army officer, was traveling from Spain to Holland, when taken off the steamer at Falmouth and placed under arrest by the British authorities.

Work also was begun on new passport regulations which will be issued in a few days to throw further safeguards around their issuance and to prevent their use improperly.

All persons connected with the issuance of the Thrasher passport either have been or will be called to account by agents of the Department of Justice.

Legal officers of the government are looking into the question of extraditing Capt. Boehm to the United States."

On the 2nd of February, 1917, a further news article concerning Boehm was published in the Portland "Oregonian" as follows:

"BOEHM KNOWN HERE
MAN HELD AS GERMAN SPY IS FORMER

PORTLAND MAN. WIFE'S RELATIVES HERE

Position Held With Hotel and Several Clubs in City and Partnership is Still Held in Business Enterprise.

Capt. Hans Boehm, who is accused of traveling as an agent of the German Government with an American passport bearing the name of Jelks Leroy Thrasher, and whose case is undergoing a rigid examination by the State Department at Washington, is well known in Portland.

Capt. Boehm has been arrested by British agents and is now at Falmouth, where he was taken after being transferred from a neutral ship while on his way from Spain to Holland. He is suspected as a spy and the State Department is considering his extradition.

Capt. Boehm is a brother-in-law of Mrs. H. L. Froggett, of the Parkhurst Apartments, 260 North Twentieth Street, and left Portland a few months after the beginning of the war.

Clubs Procure Services.

He lived in Portland for several years. He was first connected with the service department of the Hotel Portland. Later he went to the Arlington Club, where he was manager. When the University Club was opened he served that organization

and was later manager of the culinary department of the Commercial Club.

He married Miss Helen Willis, whose parents reside on a farm near Dillars, Oregon, and Mrs. Boehm and their two children are now living within an hour's ride of Berlin.

It is understood that Capt. Boehm resigned from the German army some time before the war broke out but was reinstated in time to respond to the call issued for all German reservists. At the time he received word he was to go he was on the Willis ranch, says Mrs. Froggett.

Many Countries Visited.

It is said that Capt. Boehm has visited most of the neutral and belligerent countries since leaving Portland. Portland friends have received anonymous cards occasionally, believed to have come from him.

He owns a half interest in the Northwest Importing Company, 224-226 Ankeny St., the other member of the firm being A. E. Bult.

The parents of Mrs. Boehm have received letters from her within the past few months although there was apparently no information as to where Capt. Boehm was. Mrs. Froggett said yesterday she had not heard from her sister since July and that she knew nothing of the activities of Capt. Boehm since he left Portland.

Capt. Boehm's family did not leave Portland until some time after he had gone."

The foregoing newspaper items were read by the defendant Woerndle, who realized the enormity of his offense in connection with the Boehm passport of October, 1914, and for that reason cut from his diary the entry of October 2nd and 3rd heretofore quoted. This entry was originally written on page 109. Early in February, 1917, Woerndle re-wrote on page 199 of the book in which he kept his diary, an entry under date of October 3, 1914, and pasted page 199 in his diary on the stub from which he had cut page 109, said substituted re-written entry being as follows:

"Had a grand dinner with Paul Wessinger
* * * and H. W. Boehm. Maybe I can't go
with Boehm after all, but he says he will go in
spite of hell. I only pity my poor father but then
my own family and children. Cecelia does not
want me to go and maybe I won't, but I can't
just stay. At any rate I will get my pass-
port in shape so as to have that part ready if I
should decide to go. Wrote to Sec. of State to
forward my pass to Waldorf-Astoria Hotel where
I will call for it. Boehm urges all he can for me
to go with him. Maybe I will but there will be a
surprise when I am gone."

On the 31st of May, 1915, defendant Joseph Woern-

dle wrote to one Hoerner a letter in German as follows:

5/31/15

Mr. Dear Mr. Hoerner:

Reading the news as they come over from all sides, I am overcome with a feeling of sadness, and as it now seems, and judging from today's evening paper headlines, only God Almighty can save us from war with my own Fatherland. It seems now as if the American Government has lost its head or is about to lose it. What will all happen if this takes place is hard to imagine. One shudders by the thought. The good, beautiful land where my cradle stood, poor, poor, Germany. The sword in hand it is now fighting nearly against the whole world. I shudder at the thought. What will all yet happen and what will be the outcome. Sad enough that our Government supplies the English ragpack and others with shiploads of ammunition, but wants now also to declare war on Germany. Almost unbelievable, and yet it may come to pass. For for Germany to do what the Government here demands is unthinkable, because should they do that and call off submarine warfare, they may just as well ask for peace, for many hounds are the hares's death. But I hope it will not come that far. I cannot conceive how it is

possible that Germany has held out this far, without provisions and soldier supply from without. And yet I expect and hope that Germany will come out victorious. How that is possible I cannot imagine, but she will and must be victorious. What is the consensus of opinion in Germany since now too Italy, the mutinous and treacherous brute, has drawn the dagger against Germany? How long is it possible for the supply of soldiers to last? I take from this evening's paper that the last reserves have already been called. Is this true? One cannot believe the local papers very much, and the German which now and then come over are already a month or two old when they get here. The whole matter is so immensely sad, with a solution not yet in sight. I received again yesterday newspapers from you, for which I thank you very much. I will send you from time to time newspaper clippings and newspapers so that you will also be posted about local happenings. My youngest brother was already drafted last January. Has 5 children and a wife. Horrible, if one thinks about it. Maybe the same will happen to us here. People here as it seems, are about to lose their whole sense, and it is hardly believable, that a country like ours, which has trumpeted out into the world the call of freedom and the protection of the weak, has stepped so

low as to support a bloodstained, treacherous people like England, as it is now doing. But penalty will not remain away, and our neat Government will yet perhaps bitterly regret all. Him whom the Lord wishes to destroy, he smites with blindness, and the whole Wilson-Bryan Kraut will have a frightful responsibility for the millions of human lives destroyed thru our bullet manufacture. Write me please occasionally as to the true conditions and what you think of the future.

With hearty greetings to you and your good family, I am most respectfully,

Your devoted

(Sgd.) Joseph Woerndle."

On the 14th day of May, 1915, defendant, Joseph Woerndle, wrote a letter in German to his parents as follows:

"May 14, 1915

Dear Parents:

Since I have not heard from you for a long time I take that my last letter to you has been lost. I set myself today again on the machine in the surmise that this perhaps will be the last letter for some time which may reach you. Judging from present conditions this country too will be involved in a war with Germany, loved, poor, unfortunate Germany. Haunted and persecuted by the

whole world, under all possible excuses made, belied and invented. What the outcome may be is a riddle, but at any rate the whole world will rise in rebellion and when everything will be over, there will not be very many people left. What bullet and sword will not take, pest and collera will claim. It is horrible to think about it. And yet we have here in the land of plenty no conception. If I were out there today as 3 years ago, I would without hesitation sacrifice my all for loved old fatherland, for now for the first and perhaps the last time Germany is depending on all help from child to dotard to save it from the claws of its archenemy, England and its allies. I learn with shudder of the colossal sacrifices which Germany now makes and its people, but it is better, a thousand times, to die the death for Fatherland than to eke out an existence in the shackles of the most sordid nation on earth, England. Were it not for my family here, I would have long ago returned to my old home to aid it in this time of greatest need, but as it is, such a thing is not possible. And Italy too will join the English, French and Russian hordes, and therefore will hope to be put to a severe test. Times here are hard for many, for labor conditions are not the best, and thousands of people are out of employment, but we have nothing to complain, when one consid-

ers the misery of thousands, yes millions, who now have to suffer in Europe. Has Donat been drafted already? Hopingly not, for it would be horrible for his family. But perhaps nothing can be done. The Americans, moblike, would be glad if it could get one over on Germany, but the German Michael will not have to be afraid very much. The United States are noisy, but when it comes to do something they are slow. This nation could not force ragged Mexico to salute the American flag. They will not risk to go to Germany, otherwise the Japanese may soon take possession of the best part of our coast, for they have aimed for it a long time. Our good President keeps shop open whenever it goes against the Germans, but whenever the English are guilty of anything, he is mum and blows the trumpet of peace. It fills me with sorrow if our beautiful country should be drawn into this sad war, for the will of the masses and of the more sensible classes is not for it, but if it cannot be helped we will have to go to it, at least financially. Few Germans will shoulder arms, and of the others not many will put their head in front of a Howitzer and hence perhaps not everything will be lost at once. I am only sorry for the many human lives, but I may say to you, preserve to the last man for as I hope vic-

tory will yet go to the Germans.

Father, I would like very much if you would give Kaspar from allowance monthly Mk 10. I will instruct the German bank to send you monthly Mk 60. It will be awfully hard for poor Kaspar now, and this little gift buys him now and then a quart for his recuperation.

I am always very busy and work almost day and night. But there isn't much pay in it for the people have no money. I have bought me a little farm about 6 engl. miles or 2 hours west of Portland. 25 acres with house and barn. In my auto I get there in 20 minutes. Wish you could be here with us on the "Farm." During vacation we will all move on the place. Running water, good soil, beautiful view with the lights of the city in sight.

We have beautiful weather and everything is in full blossom. The roses are all out and I fear there will not be any left for our rose carnival in June.

And now, dear Father, I will close for this time. I hope for the best, and hope that everything will pass over and that God may grant victory to Germany.

Write to me often, even if you do not get any letters from me, for half of the letters get lost.

Pray for me that I may remain well so that I can always support you.

Greeting you all heartily, I remain as ever
Your grateful son."

On the 31st day of May, 1915, defendant, Joseph Woerndle, wrote a letter in German to his brother Kaspar as follows:

"5/31/15

Dear Brother Kaspar:

I shall again try to write you, thinking that this letter may reach you. How it now looks at home I have no idea, since Italy too, the treacherous, mutinous pack has declared war on Germany and Austria. It is horrible to think about it, and the outcome makes one shudder. Has Donat already been drafted with wife and 5 small children at home. And it now seems as if this country too wants to declare war on Germany. Considering the great sacrifices this war has cost already, one can hardly understand that there are yet soldiers left, without new additions or other supply from without. One can only do one thing and that is to leave all to God Almighty. How many have already fallen from the village of Bernau? And how many and who is in captivity? What do you think the future will bring? Kaspar, I have received the deed from Notary Weiss. I had it executed here and filed with my papers with a note, that if anything happens to me that it shall be sent to you. Kaspar, I do not know if after

the war is over I will not return to the land of my cradle, and if I should do so would want to build a house on the place. I have three boys and these would perhaps be needed by my dear old Fatherland after the war. When the war is over I will know more how everything is. I have requested the bank at Munich to increase Father's allowance Mk 10 and requested him to give you Mk monthly so you can buy for yourself an extra little once in a while when you have to work hard. Write me how you are getting along and how your family is. Here everything is as of yore. Business is very poor and altho I always have my hands full, people have no money to pay. Enclosed you will find a picture of my recently acquired farm. It lies about 6 engl. miles from Portland, and I can reach it in about 20 minues in my car. I often wish you could be here with us for a while. We have beautiful weather and roses have already blossomed, so early have they come out this year. Write me again soon how everything is and all news which occur. Sending my hearty greetings to you, your wife, children and little Godchild, and also Father, Mother, Donat, wife and children, I remain as ever

Your devoted brother.

Clothes would now hardly reach you, but I will try once more to send you a suit of clothes."

On June 3d, 1915, defendant, Joseph Woerndle, wrote a letter in German to an aunt as follows:

"6/3/15.

My dear Aunt:

I received your dear letter just now and am very happy to have heard from you. I have written you twice already, but it seems that my letters have not reached you. I have not heard from you for a long time, and if you have written me, your letters did not get here. I am sorry your husband has such a disease, and there cannot be much hope. Expecially since he is so old. But then since there cannot be any hope, we must take everything in good grace. We have buried two weeks ago my dearest and oldest friend W. Lengauer to whom I first went when I came to America. He too suffered for the last two years from the same disease, and when he underwent an operation, he did not survive. I do not think that there is a cure except when a person sees to it in time. It is horrible about this war and the end is not yet in sight, and how it ends no one knows. I am ashamed of the action of the American government regarding Germany, for the people do not sanction these actions, but nothing can be changed. We do everything in our power to avoid the worst, but it's just like pouring water on a duck's back. But that America will be penalized for its double

standard I have no doubt, just like Italy. My younger brother will already have joined the colors, since he was already drafted last December. Kaspar, the older one, is at home yet, since he is employed in the Post Office and they perhaps need him badly. Neither have I heard from Father for considerable time, and as you can imagine, he is worried very much. If I were out there, I would also be found in the trenches or on the battlefield—dead—. For I would not stay away. We have just received the news that Przemysl is fallen and in the hands of the confederates. What happy news, but what against so many. We hope and pray that the Germans will win out in the end, but human strength only does not seem to make it possible. Now, dear Aunt, prepare yourself for the worst, for your strong constitution will prevail against it. Do your own thinking and work, rely only upon yourself and you will never be disappointed. If it should be possible for you to sell out, do so and invest your capital on interest, even if you have to lose a little, for you would avoid worry and cares, and you would get your money regularly. Naturally the relatives of your husband would have no further concern for you after he is gone, and for that reason you must be double careful. Otherwise I am getting along all right. That is, I am in fairly good health and my fam-

ily too. I am not earning anything for times here are miserable, and while we have a good practice, people have no money to pay for services. And now, dear Aunt, I shall close for this time. Have you the small cal. goldpieces yet I sent you some time ago? I wish you would have a picture taken of all the goldpieces I sent you and send me a picture so I would know exactly how many you are yet lacking. Write me again soon how you are and what happens. In the meantime I remain with hearty greetings to you and husband.

Your loving nephew."

On the 3d of June, 1915, defendant, Joseph Woernle, wrote a letter in German to an aunt as follows:

"6/3/15.

My dear Aunt:

I have just received your letter of April 26th and learn with sadness of the illness of your beloved husband, but hope he will soon be all right again. Only do not lose courage and everything will be all right again. It is indeed horrible about this disastrous war, and I hope it will soon be over. The American way of dealing is much to be regretted and the consequences will not remain away. Just now news reached here that Przemyśl was again conquered by the Austrians, which news naturally has caused considerable rejoicing among the Germans here. Otherwise everything is

friendly towards England as far as the press is concerned, but not the people. Our ruling powers are related by kinship with the English aristocracy and there is where the dog lies buried. Could Washington rise from his grave he would be ashamed of our present administration, which as it appears, will do anything to play into the hands of our archfoe, England. And too Italy, this low treacherous bank, has thrown herself into the arms of England. But she too will receive her reward for her high treason. Keep up hope, for God will righten everything, and Germany will and must be victorious. I have not heard from Father for some time and neither from my brothers. Donat was already drafted last December, and will no doubt be for some time on the firing line. And if I were out there, I would be found there too. And now, my dear Aunt, I must close for this time. Write me again soon and as often as you can for I always wait longingly for a letter from you. I wrote to you already a few times, but it seems all letters get lost. From you I have not received a letter for a long time. And now again hearty greetings to you and your dear husband. Hoping to hear from you again soon, I remain as ever your true, loving nephew."

On June 5th, 1915, defendant, Joseph Woerndle, wrote a letter in German to an aunt as follows:

"6/5/15.

Dear Aunt:

Your dear letter of March 28th has been received a short time ago, and I was real glad to hear from you. Yes, dear Aunt, it is horrible about this war, and an end not yet in sight. And now too treacherous Italy is gone over to the other side and it seems to me that when this war is once over there will not be much young manhood left. I am ashamed of the action of the American nation for they can never make reparation for it, and yet in spite of all efforts and work it seems that the labors of the Germans made no impression in Washington. Under separate cover I am mailing you a copy of my newspaper. My editorial (signed) just about illustrates the true situation here. You also notice my appeal for aid, but so much has already been collected from other sources, and the people on account of growing indifferent, are not donating very much anymore. I wish I had the means, I would be glad to give all to beautiful old Fatherland to aid it in this hour of need. The young population, I imagine, will not make a meager showing on account of the heavy losses so far. Yesterday we received news that Przemyśl again came into the hands of the Austrians and that the Bavarians have taken a heroic part in the assault. I only hope that the Italians

will get their neck broke for them and the English deserve the most. If I were in Germany as 3 years ago, I would gladly allow myself to be put in uniform, or otherwise be of benefit to the Fatherland. My younger brother perhaps has already been drafted, since he was last fall already examined and found able. With 4 or 5 children on his hand and a sick wife, this is to be regretted. Kasper perhaps cannot be spared by the postal authorities since they need him very bad. How everything will come out, God only knows. What do you think about it? Do you think that the Germans will be victorious? God grant it! Here everything is stagnant, and business is at a standstill. Wilson with his half bankrupt machine is trying to polster up with ammunition, powder and bullet trade his miserable stewardship, but he will not succeed and in one and one-half years he will be out. This monster will not again be reelected. And all in the most hypocritical fashion for "Humanity" and furthering of "Civilization". Such absurdity and hypocracy. But he too will also get his reward. Perhaps after the war I will visit you, if only the climate were milder, but I cannot stand the cold weather. This is perhaps the last letter that I can send direct to you, for if I am not deceived, this country too tries to break with all force the peaceable relations with Germany, and if

once diplomatic intercourse is suspended, a declaration of war will not be far off. Then something may develop here of which we have no conception. And now, dear Aunt, God be with you, for all will come out all right. Write me as often as you can. With heartiest greetings, I am as ever

Your grateful nephew."

On July 26th, 1915, defendant, Joseph Woerndle, wrote a letter in German to Kasper Woerndl as follows:

"July 26, 1915

Mr. Kaspar Wörndl,
Irschen, Post Bernau c/Chimsee,
Bayern.

Dear Parents:

I have just received your letter of June 30th and learn with great sorrow that Donat had to move to the front and that he is already 3 months incorporated in the field forces. Glad, however, to know that he received a furlough if only for 14 days, and hope if he has to go again he will return safely. Learn with regret that Osterhammer, Joseph and Seiser, Peter have fallen. How did Peter get in the Hospital? As a wounded or otherwise sick?

I am astonished that you did not get any of my letters I have written you often. Naturally my

letters are not eventless and contents may not suit.

It is shuddering if one takes into consideration the many human lives which this war has already claimed, and yet will claim, but there is no turning back for Germany, for as a nation she would be gone if this war were lost. People here learn with admiration how the German people to the last man have collected around the flag and sacrificed the last drop of blood for the salvation of German honor and the German nation. A people like the German is not to be found in the whole world, and if one reads of the English labor strikes and the like, it fills one with disgust, tho it be to the advantage of Germany; but one can see of what caliber the English are made. Apparently their own soldiers and statesmen turn traitors for a few shillings. It is hard to think that millions of young people, fathers of families and too old men are falling victims of this frightful war, but as said before, now there is no room for consideration nor retreat. Forward and forward is the battle cry until the last hostile flag covers the dust. The stand of our administration regarding the German course, is mildly said, regrettable. There is no more neutrality or impartiality for the second American note to the German government shows without doubt that the American government wishes to paralyze the submarine warfare

so as to play in this way into the hands of Germany's enemies. How such a thing, considering the American war of independence with the same suppressor, England, is possible, is inconceivable and it seems that American gratitude is of short duration. How long this horrible war will last yet is perhaps better known to you than to us, and it will be only a question of who can sacrifice most people and mold most bullets. Perhaps with the taking of Warsaw a sudden change may take place, and war may be ended over night if Russia sues for peace. But this is only to be wished. France will perhaps stay in longest with England, but once Russia is defeated, it may come to its senses, which, of course, would end the war faster. And now, dear parents, I hope that this will reach you and that all will come out all right.

How many have so far fallen from Bernau? There must be now many prisoners in the Bag Experimental station. From what side are they, Russian, French or English?

Hoping to hear from you soon, I am as ever,

Your grateful son.

Hearty greetings to Donat, if he is still at home, and his family, Kasper and his family, as well as the acquaintances."

On November the 26th, 1915, defendant Joseph

Woerndle, wrote a letter in German to Kaspar Woerndl as follows:

“Nov. 26th, 1915.

Mr. Kaspar Wörndl,
Bernau a/Chimsee,
Oberbayern, Bayern, Germany.

My dear Father:

I received your letter of September 15th rather delayed, and read your lines with interest. I regret very much to know the Donat is still at the front, but hope he will return again healthy and happy to his family. I was rather astonished regarding the delay in the payment of your allowance, but this is perhaps due to postal interruption. I will see that in the future no such interruptions will occur. I can well imagine how everything goes with you, with the head of the family still at the front, and with the many children and Donat's sick wife. I have written her yesterday, which letter probably has arrived by now.

It is immensely sad to think of the misery which has come over poor Germany and other countries, with an end not yet in sight. Naturally here one has only an opportunity to get everything colored, and perhaps it looks darker here than in Germany, even in case of a victorious ending for the German flags. Since you have served two years in the war against France in 1870, you have perhaps a better

idea as to what the ending of this war may be. Do you believe that Germany's finances and manpower will last long enough to insure victory? We hope and pray to God that victory be to the German colors and that an early peace may be made. No doubt the French prisoners in your hands are faring better than your prisoners in France (and) or England, for the German heart is not so revengeful and cruel as the Frenchman's and I pity the fate of those Germans who have fallen in the enemy's hands. The letter of my sister-in-law was so touching, and I hope that the prayer of the little ones will be heard. I hope, dear Father, that in spite of your 70 years you will live to see the end of the war and the return of Donat as well as a reunion of us all. Take good care of yourself so that you will always stay well. I will see that with God's help my allowance will punctually come into your hands for the payment of possible help on the place.

Enclosed find my check for Mk 50 for Christmas presents, which I ask you to distribute among the others as last year. I am sorry I cannot make it more, but conditions here are not the best, but hope that later everything will come out all right.

Let me also know if the German Bank makes any deduction from the monthly Mk 60. The bank charges my account with postage which is

small, but I was just wondering if they pay you the whole sum in full every month.

Hoping that this will reach you, Mother, Sister-in-law and children, Kaspar and children, in best of health and sending my heartiest greetings to you all, I am

Your loving grateful son."

On November the 26th, 1915, defendant, Joseph Woerndle, wrote a letter in German to Kaspar Woerndl, Jr., as follows:

"Nov. 26, 1915.

Mr. Kaspar Woerndl, Jr.

Bernau, c/Chimsee,

Oberbayern, Bayern,

Germany.

Dear Brother Kaspar:

I received your letter of July 7th much delayed, but could not by reason of other things answer it right away. Your very explicit letter is welcomed because others were very short. Father with his shaking hand finds it more difficult to write than you. Yes, it is sad to think that Donat with his big family at home has to suffer all possible hardships in the enemy's land. But I hope that with God's help he will again return. In the meantime you will have to help all you can to keep everything agoing. How are you

and your family and little Godchild getting along? Would be glad to see you all but this cannot well happen now. Times here are not the best and tho our administration tries to avert a crash with ammunition trade, nothing, it seems, is going ahead. There is no blessing in things of this kind, and the thought that this country has to enrich itself on thus acquired bloodmoney is not less horrible, but retribution will here also be in its wake, and the proverb, "As won so lost," will also here hold good.

Regarding my piece of land would say that both of you can use it. Only agree with one another. If Donat got the hay last year, you can plant it with vegetables this year. It matters nothing to me and as long as Donat is away, it should not be difficult for you to use it. But, Kaspar, always remember that you have a salary, whereas Donat has to get everything from the farm. Do for one another what is possible, and I will try all I can to help along. I shall have the deed which you sent me acknowledged before a consul and will then send it to you. But, dear Brother, I am doing this so you have it on hand in case something should happen to me, which no one knows, but only in case of my death I want you to inherit this land. As long as I live myself I may need it perhaps to build a house on it and to live in it if

the Germans once should be chased out of here. Would not be regretted much for this country has in past times acted disgustingly against Germany and the German race. One cannot have much respect left. How is everything otherwise out there. How many and who has fallen of the old comrades I used to know? Where is Donat? In Serbia or Russia? Send me letters once in a while which he has written to you and in which he described conditions. He has never written to me personally, perhaps cannot for reasons. What do you think of the future and the ending of this war? Write me again much and soon.

Sending hearty greetings to you, your wife, family and little Godchild, as well as to Father, Mother, Donat, wife and children, I am

Your true devoted Brother."

On December the 10th, 1915, defendant Joseph Woerndle, wrote a letter in German to Kaspar Woerndle, Jr., as follows:

"Dec. 10, 1915.

Mr. Kaspar Wörndl, Jr.,
Bernau, c/Chimsee,
Oberbayern, Bayern, Germany.
My dear Brother:

Enclosed I send you power of attorney regarding transfer to you of property belonging to me in

Irschen, so that in case of my death you will have no trouble to get the property. In the meantime you and Donat can use it as you like.

I learn with great satisfaction from Father that Donat is yet alive and well in spite of the hardships of the war, and as it now looks, Germany has 3 Aces and England 1, with other Trump cards in Germany's hands. I expect eagerly every day the news edition, thinking that every hour may bring armistice and negotiations of peace, and yet that time is yet somewhat off. Victory for Germany too means much for us, for you have no idea how much the German population and business world under present circumstances has to suffer, for the end of the war and a German victory means the resurrection of German influence in the whole world and would without doubt help us here too immensely. It is only to be regretted that so many human lives are sacrificed to accomplish this and nobody here has thought that, after even unfaithful Italy has joined in the English, French, Russian, Belgian, Serbian, Montenegian and Japanese (and many others) alliance. It is almost unbelievable and sounds like a fairytale, hard to believe, and only God's help, faith, German unity, belief, hope and denials have made it possible to achieve victory over the whole world. Here we did our best with money, agitations, etc.,

etc., but with an administration as we have it, not much can be accomplished. Only last week we held a Red Cross bazaar, and netted over \$3,000, and thruout the whole United States people are busy working so that as much as possible can be done for the old Fatherland. I hope that the war will soon come to an end so that everything will again liven up and begin anew.

Sending to you, wife, children, Father, Mother, Sister-in-law and children my hearty greetings,
I am, most respectfully,

Your true brother."

On January 20th, 1916, defendant Joseph Woerndle, wrote a letter in German to Kaspar Woerndle, Jr., as follows:

"January 20, 1916.

Mr. Kaspar Wörndl, Jr.,

Bernau a/Chimsee,

Bayern, Germany.

My dear brother:

I received your dear letter of November 22d, and observe that everything is going ahead tolerably. I also received a letter from my sister-in-law, Donat's wife, and I am immensely sorry to read of her plight between the lines. It must be horrible to know that he is now in the bloodiest angle of the whole war, where, as I consider it,

it is almost a miracle to return alive; but of course nothing can be done to change it. We are trying with all our strength to persuade our administration to stop the criminal trade in arms with England and France, but have no prospects of success. But hope it don't benefit the others because German submarines are sinking most of the ships.

Regarding the building of a house on my property in Irschen, I wish to say that until the war is over there are no hopes, for times here are bad and everything uncertain. In your place I would not ask to be removed to Munich at this time, for Father has now nobody at home. The building question is not a question of doing it, but a question of being able to do and under present circumstances, it is simply impossible. I would certainly like to see you helped in this regard, but for the present it is impossible to do.

I would like to get a photo from Donat in field uniform if one of them is obtainable. But I cannot write to him because my letters will not reach him and for that reason I would ask you to inform him of my wish and to send him my greetings, also my wish regarding photo.

Greeting you, little Godchild, wife and children, as well as Donat, wife and children, Father and Mother heartily, I am, as ever, with brotherly greeting

Your true brother."

On the 18th of February, 1916, defendant, Joseph Woerndle, wrote a letter in German to his father and mother as follows:

"February 18, 1916.

Dear Father and Mother:

I have just received your dear letter and also that of dear sister-in-law, and notice with great sorrow that you were visited with so much sickness this year. It seems I would not care to live anymore if you were taken from us. Father, pray that you remain well so that I may see you once more, only once, just once more. God will not take you from us, Father, so don't lose courage, and pray for me that I may stay well, in order to work so that I may give you comfort at least financially until this unhappy war is over. Take good care of yourself, Father, and too of Mother, for she too I want to see once more in this life, and also request of Mother that she pray for me, so I may get along well and be able to do for you much, much, very much yet. Everytime I take something in my hand which was given to me as a souvenir, I think of her. Tell her to take good care of herself so we can all see another once more. I have instructed the German Bank to pay you beginning with April \$100 per month

until the war is over, and of this money I wish for you to keep Mk 50, to give Mk to sister-in-law, and give Mk 20 to Kaspar every month. Poor Kaspar writes that he was sick and I feel very sorry that everything seems to go wrong, but hope with God's grace that everything will be better again. Never refuse the poor or hungry a piece of bread and God the Almighty will never forget us, even tho sometimes things don't look the best. The war will and cannot last long anymore because this butchery is frightful. It paralyzes my hand if I just think about it. Father, if it was necessary I would come out to help you at home and to take care of you until the war is over, for here things may get along without me, but if I can do more for you here, I had better stay here. Father, you have cared for us when we were small and helpless, you have worked day and night when we needed you, and now my dear Father I am ready to give my all to make the evening of your life as pleasant as possible. I am awfully sorry for Mother because she had to suffer so much, but God will spare us for her another joyful meeting. And this prayer goes heavenwards every day, with the prayer that nothing may happen to Donat and that he will again return happily.

Business here is very bad and I am working

almost day and night to keep above water, but I never lack optimism, and as long as a person has that, things go all right. Maybe we will make something in our mines this year and we have decided to get them in operation in the near future, since the price of asbestos has gone up.

And now, dear Father, I shall close for this time, and in the hope that this will find you, Mother, sister-in-law and children and Kaspar and family in best of health, and that the horrible war will soon come to an end, I remain as ever

Your grateful son."

On the 18th of February, 1916, defendant, Joseph Woerndle, wrote a letter in German to Mrs. Donatus Woerndl, as follows:

"Feb. 18, 1916.

Mrs. Donatus Woerndl
Irschen, Post Bernau,
Oberbayern, Germany.

Dear Sister-in-law:

I have just received your letter and also the letter of Father and learn to my great sorrow that you have all been visited with sickness. It pains me intensely that in spite of all the other misery you weren't spared of this visitation, but trust to the divine providence of our Lord and He will make everything right again. He never forgets

us if we do not lose faith in Him. I rejoice that much more since good Mother and dear Father are again on their way to recovery, and I hope and pray that when the next harvest comes this unfortunate sad war will be over. Although everything looks yet dark as the night, God will soon send us a ray of light, and the misery which poor Germany and its poor people withstood so faithfully and steadfastly will be turned into joy. Kaspar too writes he was sick and I cannot illustrate the profound sorrow I feel for you. I have instructed the bank to send you beginning April Mk 100 instead of Mk 60 every month and until this unhappy war is over and I have God's grace to send it. I would be glad to go over and help you at home if you think that I could do more for you in that way, but that is doubtful. Here times are miserable, at least out West. In the East things go somewhat better because the people have more work (perhaps in the ammunition factories). A shudder overcomes a person when one thinks that for filthy money millions of dollars worth of shrapnels are manufactured to slaughter thousands of young human lives. But all protestation appears to be fruitless. What visitations God Almighty reserves for us remains to be awaited, but we as Americans can surely expect no blessing for it. I hope and pray that Donat will return

home well. We have decided to reopen our asbestos mines in Eastern Oregon in which I own a little less than one-third interest, in a few weeks, and I wish for you to pray that we are successful. We own in all something over 120 acres, or an area of 600 feet wide and 6000 feet long. Alongside we hold a purchase option for 25 acres more rich asbestos land. The price of asbestos has gone up since the outbreak of the war, and I think the operation now can be made to pay. We also have acquired about \$2500 new machinery and I think we can compete against Canadian markets and competition. Asbestos is found only in Canada, Russia and only three places in the United States, of which ours is one. I am the President of the Mining Co., but do not concern myself with the mines themselves. The offices however are next to ours and under my direction. Debts we have none on the property neither on the ground nor machinery, but everything depends if we can sell the products at a price so as to make a profit, and this time I believe is at hand. After the war I shall send sample to Germany and perhaps supply the German needs and in this connection would make a trip to Germany. Will also send you samples later on.

And now, dear sister-in-law, I must close for this time, and altho it is already 9:30 P. M., I

have yet to write a few letters. My private correspondence I attend to evenings myself.

Hoping and praying that my dear brother will again return home well, that father and mother will soon recover their health, that this will reach you all in best of health, and that this unhappy war will soon come to an end, I remain as ever

Your sincere brother-in-law."

On May the 8th, 1916, defendant, Joseph Woerndle, wrote a letter in German to Mr. Donatus Woerndl, as follows:

"May 8, 16.

Mr. Donatus Wörndl,

1 Bav. Reserve Army Div.

i Bav. Reserve Dis. Regiment No. 12.

My dear Brother:

I wrote to you often since you were inducted into the army, but it seems that my letters do not reach you, but I shall try once more to get this to you.

One's blood stagnates, reading of the horrors of the war, and I cannot understand how the All-mighty God allows that so many human lives daily, yet hourly, are permitted to be butchered. I pray every day and at every opportunity that this terrible and unhappy war would cease, but as it seems in vain. We here in spite of all reports cannot have an idea of the misery which now ex-

ists in Europe. Neither have I ever received any word from you, if you have ever written, and I am very much worried that nothing will happen to you. I cannot escape a shudder when I ponder over the situation, and yet it seems that fate wills it so. I cannot understand that the stupid French cannot see that they are in vain sacrificing their sons to salvage damned England's chestnuts from the fire. And that our country too should offer herself for cursed gold to furnish tools of murder to blow hundreds of thousands of human lives out of existence. We protest, telegraph, argue, and do all we can, but all our efforts seem to have no effect upon the Administration in Washington. And an end not yet in sight. Our can never repay for the curse of his deeds, for it seems as if he has sold his soul and body to the devil and his ally England, and it looks as tho he were lending every effort to throw our country into this war. But woe the shores and this flag if it comes that far. Here too there will not remain one stone upon the other if this comes to pass, for the blood-bath which he here prepares will outtop in blackness any shadow which the angel of death has ever thrown on Europe. This monster of a president seems not to notice the bloody handwriting on the wall, but it will be that much more red when the hour comes, and he shall persist to throw this

country into the mouth of inhumanity and war. I hope it will not come that far and that the good own common sense of the American people will not leave them at this hour. Dear brother, write to me how everything looks and how you are, for I would be glad to hear from you. I have raised your allowance to Mk 100 per month to the conclusion of war, and I hope that it will get to you promptly. I feel very sorry for your wife and your small children as well as Kaspar and children and for Father, in fact all concerned and hope that this butchery will soon come to an end. The whole world admires the Emperor, for he is perhaps the greatest man that ever lived, the ablest soldier, diplomat and ruler, and I hope he will succeed to lift the world back upon its axle. If he can't do it, nobody else can.

And now, dear Brother, remain true to your flag and your fatherland, do not lose courage and God will never leave you. I will do everything in my power to help at home and otherwise.

GOD WILL NOT DESERT THE GERMANS

Pray for me so I may remain well and be able to help you, and I am willing to sacrifice everything to contribute my mite in this dreariest time and hour in order to alleviate the misery of the unfortunate and suffering. And now, my dear Brother, I shall have to close for this time. It is

already past 11 o'clock and I have several letters to write yet. I have sent my family to the beach a week ago because my two youngest boys had the whooping cough and nothing would help, and hence the Doctor advised change of climate. We are only about 118 miles from the coast and I can get there every Sunday by fast train. The trip takes 5 hours, but I can spend the day with them.

With hearty greetings to you and your comrades, and hoping to hear from you soon, I remain as ever

Your loving brother.

P. S. Your wife sent me a soldier's photo of you, which I heartily enjoy."

On July 14, 1916, defendant, Joseph Woerndle, wrote a letter to Mr. H. W. Boehm, as follows:

"July 14.

Mr. H. W. Boehme,
Kurfuerstendamn, 100,
Berlin-Halusee,
Germany.

My dear Mr. Boehme:

I have received two of your letters and I have answered both of them previously, but it seems that neither of my letters came into your hands, however, both of my previous letters did not touch upon your business affairs very much, as I

had no chance to get up a complete report which I now submit. I have had a talk with the Ladd & Tilton Bank in reference to your note and have found that no part of the principal of \$500 has been paid off, although the interest have always been promptly made. I have also called at the office of the Northwest Importing Company and have had a talk with Mr. Bult several times. The Northwest Importing Company is still in existence but like a great many other concerns has just about kept (about) above water, without counting, however, running expenses as far as the salary of Mr. Bult concerns. Mr. Bult was very nice in showing me over the whole premises and the books. From said books, I find that on the first day of January, 1915, the business was charged with the following:

Assets:

| | |
|---------------------------|----------------|
| Ladd & Tilton Bank..... | \$500.00 |
| Printing Bill | 35.00 |
| Portland Brewery | 25.00 |
| McCondrey Bros. Teas..... | 36.40 |
| Livery | 56.00 |
| Fletcher, Teas | 10.00 |
| Casswell, oils | 55.00 |
| Burnett, Cash | 40.00 |
| Paste Co. | 20.00 |
| Total..... | <hr/> \$777.40 |

The outstanding credits amounted to \$700.00, plus fixtures and some stock. Against this is also charged your note of \$735.00 and owing Mr. Bult for salary balances \$125.

On January 1, 1916, the debits show:

| | |
|-----------------------------|----------|
| Ladd & Tilton Bank | \$500.00 |
| Neisson Company, oils | 199.10 |
| Printing | 10.00 |
| Portland Brewery | 25.00 |
| McCondrey Company | 90.00 |
| Livery | 67.00 |
| Casswell | 55.00 |

Total.....\$824.10

Plus note H. W. Boehme, \$735, account Bult, back salary balances \$180.00. Outstanding credits credited against this, \$739.00.

On the 14th day of July, the date of this writing, I find the following charges:

| | |
|-----------------------------|----------|
| Ladd & Tilton Bank..... | \$500.00 |
| Niesson & Co. | 199.10 |
| Portland Brewery | 25.00 |
| George Harvey, Loan Broker, | |
| 3% P. M. | 100.00 |

Total.....\$824.10

The outstanding accounts amount to \$807.00.

Besides this is your note of \$735.00 and accumulated salary balances of Bult in the sum of \$330.00.

The net profits for 1916 are as follows:

| | |
|----------------|----------|
| January | \$ 96.25 |
| February | 55.19 |
| March | 91.16 |
| April | 109.00 |
| May | 96.25 |
| June | 61.85 |

The above, however, are not embracing Mr. Bult's salary; hence every month except April shows a loss. Mr. Bult now pays all cash and owed nothing for coffee. The rent has been reduced to \$30.00. This gives you a clear idea as to the conduct of the business. There has been paid in by Alma Raleigh, the sum of \$60.00, which is held subject to your orders and here on deposit. Incidentally I may say I have received in your first letter a check of \$10.00, attorneys fees. This is the sum I have heretofore acknowledged, but perhaps you have not received my letter.

In reference to your lots I would say that the bank still holds title to the same as to the equity on the acreage in Lents. I have taken up the matter with Mr. Bult, but as he was not in a position to get me the deed, I have withheld the same and now still withhold the contract. I am afraid,

however, that since no payments have been made on the contract, same has ceased to exist as an asset. I am of the belief, however, that one can get title again by paying up back installments. Your other goods I am having in my safe-keeping as before. So much for the business end of this communication.

Your last letter I have received from Salt Lake City, was written on an Underwood Typewriter. Strange isn't it. I have too, sometimes wondered at the report that you was within the boundaries of our state, but I am inclined to believe that you would have called, had you been here. But never mind, when this horrible butchery in Europe is over, you may be able to tell me all about it. Just yesterday we received the news that the German submarine "Deutschland" has arrived in New York. You can imagine the joy among the "hyphenated", although the news from the front are somewhat discouraging of late. However, I hope with the prayers of the millions within the confines of this beautiful country, the victory will go where it belongs and the poker chip stake of the proud Albien will twindle down, with the aces of the deck all in Wilhelm's hands. Even the most faint-hearted have a ray of hope, with the first days of the far and long heralded offensive of the allies simmering down in significance no

matter what friend or foe may think of German militarism and the Kaiser's "Me and Gott." No human being has ever guided the destinies of that country, like Wilhelm. It is a struggle long and hard but with the faith, confidence, loyalty and endurance, the outcome of the struggle is not in doubt. We are here doing our best. We are filing scores of protests against the unneutral (seemingly at least) acts of our Government, and in a small degree, I support they have had a bearing upon the relations had in the past with the country across the water, second dearly loved by us all. However, we have not achieved that which from a Christian humanitarian and civilized standpoint, we considered expedient and proper. We have been compelled to see German dollars, intrusted to our banking institutions, swell the war loans granted by J. P. Morgan and his crows, unable to help ourselves or to stop the banks from so doing, and the present predicament shows us how important it is for the German speaking people of this country and their descendants to rally to the banner of true Americanism, i. e., to guard our interests, first, last and always as American citizens only and not to foster English enterprises and bolster up their half bankrupt country. I am somewhat sorry to notice that the allies have again gained an inroad into the German lines of de-

fense, but hope that these gains are only temporary and that they will exhaust themselves before they will reach their goal. I would be pleased to receive from you news as to conditions existing at present in the dear old Fatherland.

Do you in your travels ever get near Rosenheim, Bavaria? My folks live at Bernau am Chimsee. They would be glad, I am sure, if you could say 'Hello' for me. If there is anything I can do for you in any shape, let me know. Often wished I could go home and do my share, to help carry the burden, but I presume I can be of greater use right where I am.

Hoping to hear from you soon and submitting my kind wishes, I am, believe me, as ever,

Sincerely your Friend.

W/B"

On September 15, 1917, defendant Joseph Woerndle, wrote a letter in German to his father, as follows:

"September 15, 1917.

Mr. Kaspar Wörndl,

Bernau a/Chimsee, Oberbayern, Bayern.

My dear Father:

At last I have succeeded to discover an address to have a few lines reach you. I have not heard from you for over one year and the uncertainty regarding yourselves drives me nearly crazy. The

enclosed letter was the last one I wrote, but like another one written prior came back to me. We are already since last March, tho indirectly, in this butchery, and no end is in sight yet. I hoped in vain that the peace proposal of the Holy Father would bring the long sough peace, and yet the whole human race prays for an end to this butchery. How long it will last yet only God knows. About the terrible suffering at home and otherwards in Europe we have probably no idea, but what may come here only providence holds in hands. A week before the outbreak of the war I have sent you thru the Transatlantic Trust Co. in New York \$250.00 or about Mk 1200, but do not know to this day if you have received it. I paid for telegraphic remittance, but no return report ever came. How are you and are my brothers yet alive? The thought about them and their children and wives nearly takes my senses. How is your health? I hope and pray to God every day that he may spare you for us. If this unfortunate war is once over and I have the means, I hope to come out to you for a visit. Who and how many of my old comrades and acquaintances have already fallen? Are there yet any people left? Write to me, dear Father, and address the outer envelope either to "German Aid Society, Stockholm, Sweden" or to "American Red Cross, Stock-

holm, Sweden." The inner envelope which contains my letter must have my address on the outside.

Otherwise I am getting along fairly well. Business is on the dogs entirely and how everything will end I have no idea. If you write to me, dear Father, do not forget to paste an international postage stamp on the envelope addressed to me. And, dear Father, write without delay. Hoping that this letter will find you all alive and well, and with kind regards to you all, I am

Ever your grateful son."

Some time after January 3, 1916, and prior to July 14, 1916, defendant, Joseph Woerndle, received the following letter :

"Lille, France, Jan. 3. 16.

My dear Woerndle,

I wonder, if you ever have received any of the letters, I have written to you from various places. I have my doubts about it, as our dear friends, the English, particularly late, rifle even the neutral mail bags rather thoroughly. I have an opportunity of sending these lines through by a private party to the dear old U. S. and hope, that they will get safely into your hands. No message from you ever reached me and I believe, anything you may have written, rests safely at the bottom of the ocean.

Is the Northwest Importing Co. still in existence? When I left the Co. owed Ladd & Tilton \$400.00, for which this bank was holding, as security, my deed to 4 lots in Portland; according to the agreement the loan should have been paid back long before this—I wonder, if this has been done? The deed should have been returned to you by Bult. If it has not been turned over to you, will you be kind enough, to take the matter up with Bult. The N. W. Imp. Co. further owes me personally \$735.00, for which amount a note should be in your hands. This note I had, at my departure from Portland, given to friend Klein of the Hofbrau as a security for a certain loan. The latter has been paid back by me about a year ago and my cancelled check to Klein is in my possession. Klein was requested, to turn the note over to you. The N. W. Imp. Co. should have begun long ago, to pay at least \$25.00 per month on this note. Will you look after that too? So much for the business——

As to me personally I got through so far with a whole skin, and am feeling splendid. I am captain, detailed to the General Staff and “Ritter des eisernen Krauzes.” My wife and children are very well, the little fellows speak German fluently, and Madam is still overwhelmed by the

greatness, the enormous strength, the silent unconquerable power of Germany. As to the end of the war, nobody can predict, when it will be; as to the outcome, there is no doubt; We HAVE WON! Our armies are standing, an unbreakable wall of iron, in the enemies' countries, we have everything we need, now or in the future, Serbia is completely eliminated, so will Montenegro be, the Allies at Gallipoli are no longer to be reckoned with, Albania will be taken, the English and French will be thrown out of Saloniki, and even if we should return every foot of conquered territory in the East and West (remember: we are not carrying on a war of conquest but a defensive war, into which we have been forced!) our victory will be great and far reaching, for the ring of our enemies has been broken forever, we are standing hand in hand with our friends and the road to the Persian Gulf is open, a fact, which will be of the greatest consequences! The German total losses are smaller than the French losses alone, or our wounded 92% return to the front. In the battle of the Champagne the French lost 250000 men, the English (at Loos 60000 and we—between 35 and 40000 men!

The English—and they know it themselves!—are in the position of a business man, who has ventured the bulk of his fortune in a great enterprise,

which turns out to be a losing proposition, and who is now compelled, to throw the remainder of his fortune into the gap, in the vain and hopeless attempt, to turn the tide in his favour. It is too late! they are beaten, but, of course, they cannot admit it as long as there is still a hope of getting some new fool to get the chestnuts out of the fire, and—the English always have been willing to fight to the last Frenchman!

It is really almost pathetic, to see, to what means they have to resort, to keep up appearances for at least some time to come; no means are too low, no lies too brazen! Since the Belgian and other atrocities do not work any more, I should not be surprised, if they would try, to tell the American people, that Germany will, after this war is over, tackle the U. S. Anything, to poison the mind of the Americans! We know, of course, that the big papers, owned or in the pay of the English, do not represent the actual sentiment of the people, who would be immensely pleased, if an American citizen would be placed on each English ship, to save the English navy from our submarines. One could be surprised, why certain people have not hit upon the idea of placing, board and room free, some American citizens in each trench of the Allies and telling us, "Don't you dare, to shoot this

way, here are Americans"! Just imagine, in what fix this would put us Huns and Barbarians! Why, in the name of all common sense anyway, do we object to being blessed with Kossaks, Senegalniggers and colored Englishmen's civilization!

Well, duty calls! Sincerest regards to all, who remember me.

Faithfully yours,
H. W. B.

Berlin-Halenses

Kurfuerstendamm 100.3

That all of the letters heretofore quoted and being in pages 5-24 of this Statement of Evidence, the same beginning with the letter on page 5 hereof, dated May 31st, 1915, written to one Hoerner, and ending with the letter on page 24 hereof signed H. W. B., were admitted subject to the objection of the defendant that the same were incompetent, irrelevant and immaterial and on the further ground that the same had illegally and unlawfully been taken from the possession of the defendant on admittedly invalid search warrants and in violation of the 4th and 5th Amendments to the Constitution of the United States.

The defendant Woernle on the witness stand in his own behalf testified that when he discussed the passport matter with Boehm in 1914, Boehm said he wanted to go to Germany, but could not because he could not get a passport not being an American citizen,

and that Woerndle offered Boehm, Woerndle's passport and other papers for identification.

Woerndle further testified that he was a child of poor parents—his mother died when he was a mere infant and he never knew her; his father remained unmarried for thirteen years and took care of the children and the family was very much attached to each other and when the defendant wanted to go to college, the brothers agreed to stay at home and bear the cost of his education. In that way defendant was given much that the others did not have and one member of the family would do for the other anything that they could learn or find out they wanted. There was some concern about the defendant's health and he learned of the healthy climate in America and the opportunities for people who were willing to work and at the age of sixteen years, defendant decided to come to the United States. In order to get away and avoid military duty he applied for and was given a certificate renouncing German citizenship and releasing him from liability for military service; that said certificate deprived him of any vestige of German citizenship. Defendant had not performed any military service and had had only such training as was given in college. Defendant was always opposed to violence, war and butchery of any kind; never approved of the military system and that was one of the reasons why he wanted

to get away from Germany while he was young enough to get away.

He landed at Castle Garden on July 30, 1897, and after being in the United States a little more than a year, declared his intention to become a citizen at Chehalis, Washington. He was first employed working on a section or construction gang building a railroad in the western part of the State of Oregon; wages \$1.25 a day; afterwards worked in logging camps, saw mills and any work that was offered. He was married April 5, 1905, to an American girl named Cecelia Sherlock; there are three boys, age 16, 12 and 10, all born in the United States; neither the wife, nor any of the children speak, read or write German.

Since coming to the United States, the defendant has contributed financial assistance to his father and brothers, making monthly remittances, and later as his earning capacity increased, he was his father's whole support. At the outbreak of the European war in 1914, defendant was living in Portland, practicing law, and acting as legal representative of the Austrian Consul at San Francisco. Since the discontinuance of the Austrian Consulate, defendant has been and still is attorney for the Czecho Slovakian, Serbian Poland and Serbian Governments.

Referring to the Boehm passport, Woerndle testified that after receiving letters from home and realizing the hardships and the terrible situation out there,

he sort of made up his mind that he would go back and see what he could do for them; that it drove the defendant nearly crazy to think that his old father in his advanced age of life had to endure those hardships and defendant was willing to go to any limit almost to go to work and help him. Defendant could not go on account of his own family here, but when defendant got acquainted with Hans Boehm, Boehm offered that he would be glad to return; Boehm was a reservist and had received a call to go anyhow and said that anything he (Boehm) could do over there, he would gladly do, to which Woerndle said: "Well, since I can't go, I will let you have my passport," with the understanding that if Boehm failed to get through he was to return the passport again.

Woerndle testified he did not hear from Boehm from October, 1914, until he received the letter dated January 3, 1916; that in October, 1914, there was no thought of the United States being at war and that defendant did not consider the consequences of the passport incident in connection with the United States; that he did not think about it and had only in mind to give what aid he could to the place of his birth and to bring it to his father.

Defendant testified that he had formed the habit of keeping a diary for years in which he had a daily expense account and wrote down occurrences and his feelings and thoughts. Also that sometime in Decem-

ber, 1918, the Government made a raid on the defendant's home and office and took everything in the form of literature, letters, books, etc., in all a small truck load of stuff, including his own personal correspondence and diaries, including the particular letters heretofore set forth in this Statement of Evidence.

After October, 1914, and until the entrance of the United States into the war, defendant continued to correspond with his people in Germany, writing sometimes twice a week and four or five times a month, trying to reach them continually. Defendant's youngest brother, who had five children, was then serving in the army, drafted during the early stages of the war. Defendant's older brother, who had seven children, was at home with his family, employed by the German postal department. There was no one at home to take care of defendant's father and mother and farm and do the work except defendant's sister-in-law, father and stepmother. Defendant's parents were in want all the time. Defendant received letters from his father during the first stages of the war imploring him not to forsake them in their misery.

Defendant wrote many letters to his relatives, which were not delivered; some were typewritten; some were written in longhand. His family wrote the defendant that any ordinary letter deploring the war, was hardly ever delivered; they would not get any and that was the reason defendant resorted to almost any means to get

word to his father and sister-in-law. He could not write to his brother because he was in the army. After defendant had written four or five letters and none of them reached their destination and letters containing financial aid in the form of paper money, would not be delivered, defendant hit upon the idea that the only way to do was just to go to work and show sympathy for the other side "and a lot of these compliments, for instance to Kaiser Wilhelm, were merely to expedite the thing and get the letters through the German censor, because there were few letters—they wrote me—there were very few delivered."

Defendant loved Bavaria but has no sympathy particularly for Kaiser Wilhelm; that the Bavarians, after they were annexed from Austria to Germany were always more or less bitter against the Hohenzollerns. "Anyhow there never was any sympathy of any great extent, I am sure of that, because even during the Franco-Prussian War it was folk talk that they did not have any particular sympathy for that house because they were happier with the Austrian house than they ever were with the Hohenzollerns."

That the various derogatory remarks in the letters referring to the United States were not his sentiments, but that he used these expressions to get the letters passed the German censors. That he used the same method in the letter to one E. Hoerner, because Hoerner did his banking business out in Germany and dur-

ing the war managed thru him to get remittances to his father and to other people related to him; that therefore it was almost as imperative for him to reach Hoerner as it was to reach his own folks, because he had to depend entirely upon him to make these remittances to his father.

Defendant testified that after the United States entered the war he did everything he knew how to be helpful or useful to the United States. "In my capacity as attorney for the Austrian Government people would come to me and whenever anything didn't look right, I made my reports to the District Attorney's office and did everything that was humanly possible. After we went into the war, I never even tried to get a letter across to my father or sent him a 5 cent piece for support, much as it broke my heart." That he made a report to then United States Attorney Reames about a Hungarian named Gorman who offered his services to Woerndle to do anything that might be needed in behalf of Austria Hungary in connection with the war. The records of the United States Attorney's office show that Woerndle wrote a letter to Mr. Reames about this incident. That he made various reports and among them he plainly recollected making three reports, and that in another case he reported a certain man named Gorman, who came to his office and after inquiring if the defendant represented Austria, said:

"Well, I am here to be at your service, whatever you need for, anything at all you want to have I will do—if there is anything to be done in connection with this war, I will do it." The defendant testified that when this occurred he told Gorman first of all he ought to be ashamed to talk that way and secondly that we were at war, he was a citizen, and if he were not, he would not soil his hands with anything of this kind, and that after the man had given the defendant his address he at once reported the whole affair to the United States Attorney who in turn referred the case to the military department.

Defendant testified that he bought Liberty bonds during the war with all the means he had and trust funds, and that he had certain trust funds to invest in any way he saw fit and that he invested these in Liberty bonds and that in several cases of estates (naming the estates) he petitioned the court to be allowed to invest their funds in Liberty bonds; that he never refused to contribute to the Red Cross, Y. M. C. A. or other war activities, and always made liberal donations and gave whatever he could afford to give; that he notified the alien property custodian of all property he had belonging to aliens, including that of Boehm; and that as a result of his report on Boehm's property, an operative of the United States Intelligence Bureau of the Department of Justice called upon him and he turned over to the operative all Boehm's

effects, including sealed envelopes addressed to Boehm's father, deeds, will, correspondence and other property; that this property was all offered by the defendant to them six months prior to the raid upon him and that he was told to "Keep them, that is all right." That a good part of his time was taken up with questionnaire work of Austrian people, for which he made no charge, and advised aliens not to claim exemption, and told them as long as they were making a living they ought to stand by the country that gave them shelter; and that as a result of his efforts in advising these aliens not to claim exemption from war service he remembered only two cases in which they refused to waive their exemption; that he was never arrested during his residence in the United States, that he is a tax payer; and all that he has is in this country; that he had no thought of disloyalty to the United States, that he never did anything that conflicted with the interests of the United States. In reference to the Boehme passport application, he testified: "I didn't look upon this passport question in the first instance that way; in fact, never gave it any thought until the thing was all over and too late; but as far as my life here is concerned, I can refer to every community I ever lived in, I have done the best I could for the uplift of everything. And if I hadn't been above the age limit to call to service, I know that I would not have evaded the law. I have always done what I thought I

was expected to do, and then some", and if necessary or if the country needed it, he would "go the limit, life and property—anything" in making personal sacrifices for it.

Defendant was admitted to the bar in 1909, and in 1914 was the sole representative of Portland of the Austrian Consul who was located at San Francisco; in 1914 Nationals of Austria went to him for information and advice; he published at Portland a German newspaper for which he wrote editorials; he was aware of the issuance by the President of proclamations of neutrality.

Defendant said he realized he was doing a wrong thing against the United States when he aided Boehm with his passport, and as a lawyer knew in 1914 he was committing a felony; and in this respect further testified, "I didn't give that any thought; it didn't look to me, to allow him to travel on that passport, it never even occurred to me, I never figured the consequences." That his heart was with the place where his cradle stood and with his folks and that he felt grievously sorry and that was the main reason, not to help Boehm. His belief that expressions of hostility to the United States would aid in getting his letters passed by the German censor was from his own deductions, defendant testifying he just reasoned this out from powers of deduction, that if the same thing were true here and we would feel perhaps the writer was sympathetic, we

would give it greater consideration than we would a letter that came from a hostile hand, and he never intended an unkind remark against the United States.

Otto Berg, manager of the insurance department of Hartman & Thompson, testified he had seen Woerndle fill out many questionnaires and knew that Woerndle had advised two or three aliens or alien enemies to go to war since the United States got in.

Approved Sept. 23, 1922.

R. S. BEAN,

Judge.

CERTIFICATE OF CLERK OF U. S. DISTRICT COURT TO TRANSCRIPT OF RECORD

United States of America,
District of Oregon, ss.

I, G. H. Marsh, Clerk of the District Court of the United States for the District of Oregon, do hereby certify, that the foregoing pages numbered from 1 to . . . inclusive, constitute the transcript of record upon appeal from the decree of the District Court of the United States for the District of Oregon, in a cause in that court in which the United States of America is plaintiff and appellant and Joseph Woerndle is defendant and respondent; that ~~I have compared~~ the foregoing transcript with the original record thereof and that the same is a true and complete transcript

G.H.M.

of the record of proceedings had in said court in said cause as the same appear of record and on file in my office and in my custody. *But in accordance with stipulation filed I have not compared this transcript with the original thereof.*

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said court at Portland, in said district, this^{7th}..... day of October, 1922.

G. H. MARSH,

Clerk, United States District Court
for the District of Oregon.